

SOUTH CAROLINA STATE REGISTER DISCLAIMER

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SOUTH CAROLINA STATE REGISTER

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This issue contains notices, proposed regulations, emergency regulations, final form regulations, and other documents filed in the Office of the Legislative Council, pursuant to Article 1, Chapter 23, Title 1, Code of Laws of South Carolina, 1976.

SOUTH CAROLINA STATE REGISTER

An official state publication, the *South Carolina State Register* is a temporary update to South Carolina's official compilation of agency regulations--the *South Carolina Code of Regulations*. Changes in regulations, whether by adoption, amendment, repeal or emergency action must be published in the *State Register* pursuant to the provisions of the Administrative Procedures Act. The *State Register* also publishes the Governor's Executive Orders, notices or public hearings and meetings, and other documents issued by state agencies considered to be in the public interest. All documents published in the *State Register* are drafted by state agencies and are published as submitted. Publication of any material in the *State Register* is the official notice of such information.

STYLE AND FORMAT

Documents are arranged within each issue of the *State Register* according to the type of document filed:

Notices are documents considered by the agency to have general public interest.

Notices of Drafting Regulations give interested persons the opportunity to comment during the initial drafting period before regulations are submitted as proposed.

Proposed Regulations are those regulations pending permanent adoption by an agency.

Pending Regulations Submitted to the General Assembly are regulations adopted by the agency pending approval by the General Assembly.

Final Regulations have been permanently adopted by the agency and approved by the General Assembly.

Emergency Regulations have been adopted on an emergency basis by the agency.

Executive Orders are actions issued and taken by the Governor.

2002 PUBLICATION SCHEDULE

Documents will be accepted for filing on any normal business day from 8:30 A.M. until 5:00 P.M. All documents must be submitted in the format prescribed in the *Standards Manual for Drafting and Filing Regulations*.

To be included for publication in the next issue of the *State Register*, documents will be accepted no later than 5:00 P.M. on any closing date. The modification or withdrawal of documents filed for publication must be made **by 5:00 P.M.** on the closing date for that issue.

	Jan.	Feb.	Mar.	Apr.	May	June	July	Aug.	Sept.	Oct.	Nov.	Dec.
Submission Deadline	1/11	2/8	3/8	4/12	5/10	6/14	7/12	8/9	9/13	10/11	11/8	12/13
Publishing Date	1/25	2/22	3/22	4/26	5/24	6/28	7/26	8/23	9/27	10/25	11/22	12/27

REPRODUCING OFFICIAL DOCUMENTS

Documents appearing in the *State Register* are prepared and printed at public expense. Media services are encouraged to give wide publicity to documents printed in the *State Register*.

PUBLIC INSPECTION OF DOCUMENTS

Documents filed with the Office of the State Register are available for public inspection during normal office hours, 8:30 A.M. to 5:00 P.M., Monday through Friday. The Office of the State Register is in the Legislative Council, Fourth Floor, Rembert C. Dennis Building, 1000 Assembly Street, in Columbia. Telephone inquiries concerning material in the *State Register* or the *South Carolina Code of Regulations* may be made by calling (803) 734-2145.

ADOPTION, AMENDMENT AND REPEAL OF REGULATIONS

To adopt, amend or repeal a regulation, an agency must publish in the *State Register* a Notice of Drafting; a Notice of the Proposed Regulation that contains an estimate of the proposed action's economic impact; and, a notice that gives the public an opportunity to comment on the proposal. If requested by twenty-five persons, a public hearing must be held at least thirty days after the date of publication of the notice in the *State Register*.

After the date of hearing, the regulation must be submitted to the General Assembly for approval. The General Assembly has one hundred twenty days to consider the regulation. If no legislation is introduced to disapprove or enacted to approve before the expiration of the one-hundred-twenty-day review period, the regulation is approved on the one hundred twentieth day and is effective upon publication in the *State Register*.

EMERGENCY REGULATIONS

An emergency regulation may be promulgated by an agency if the agency finds imminent peril to public health, safety or welfare. Emergency regulations are effective upon filing for a ninety-day period. If the original filing began and expired during the legislative interim, the regulation can be renewed once.

REGULATIONS PROMULGATED TO COMPLY WITH FEDERAL LAW

Regulations promulgated to comply with federal law are exempt from General Assembly review. Following the notice of proposed regulation and hearing, regulations are submitted to the *State Register* and are effective upon publication.

EFFECTIVE DATE OF REGULATIONS

Final Regulations take effect on the date of publication in the *State Register* unless otherwise noted within the text of the regulation.

Emergency Regulations take effect upon filing with the Legislative Council and remain effective for ninety days. If the original ninety-day period begins and expires during legislative interim, the regulation may be refiled for one additional ninety-day period.

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 South Carolina General Assembly Home Page: www.scstatehouse.net

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2609	R160	SR26-1 State Human Resources		Budget and Control Board
2567		SR26-2 Req for Additional Area of Certification	1 14 02	Board of Education
2581		SR26-2 Continuing Insurance Education	1 15 02	Department of Insurance
2600		SR26-2 Need-based Grants Program	1 22 02	Commission on Higher Education
2601		SR26-2 Palmetto Fellows Scholarship Program	1 22 02	Commission on Higher Education
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2566		SR26-4 Graduation Requirements	3 09 02	Board of Education
2616		SR26-4 Well Standards	3 10 02	Department of Health and Envir Control
2518		SR26-4 Perinatal Care	3 16 02	Department of Health and Envir Control
2618		SR26-4 Hunt Units and WMAs	4 01 02	Department of Natural Resources
2621		SR26-4 Retail Managers; Finance Managers	4 01 02	LLR: Manufactured Housing Board
2586		SR26-5 Definition of a Limousine	4 13 02	Public Service Commission
2613		SR26-5 Assessment Program	4 24 02	Board of Education
2626		SR26-5 Licensing Nonpublic Postsecondary Ed Instit	5 01 02	Commission on Higher Education
2614		SR26-5 Defin, Permits, Sts for Tidelands Coastal	5 01 02	Department of Health and Envir Control
2623	R.253	SR26-5 Standards for Permitting Body Piercing	5 07 02	Department of Health and Envir Control
2593		SR26-5 Nitrogen Oxides	5 07 02	Department of Health and Envir Control
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2630		SR26-5 Drought Planning Response	5 07 02	Department of Natural Resources
2659		SR26-5 End-of-Course Tests	5 07 02	Board of Education
2664	R.279	SR26-5 Requirements for Limited License	5 07 02	LLR: Board of Medical Examiners
2678	R.197	SR26-3 SC National Guard Student Loan Prog	5 07 02	Commission on Higher Education
2660	R.243	SR26-5 Standards for Licensing Hospices	5 08 02	Department of Health and Envir Control
2657		SR26-5 Seasons, Limits, Methods, Use WMA's	5 08 02	Department of Natural Resources
2685		SR26-5 Real Property Owned by Department	5 08 02	Department of Natural Resources
2661		SR26-5 State Primary Drinking Water	5 08 02	Department of Health and Envir Control
2671		SR26-5 Standards for Wastewater Facility Construction	5 08 02	Department of Health and Envir Control
2690	R.288	SR26-5 Trout Harvest	5 09 02	Department of Natural Resources
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2673		Environmental Protection Fees	6 01 02	Department of Health and Envir Control
2646		Standards for the Permitting of Agricultural Animal Facilities	6 06 02	Department of Health and Envir Control
2686		Recording and Reporting Occupational Injuries and Illnesses	6 13 02	Department of Labor, Licensing and Regulation
2687	R.267 SR26-5	General-Family Independence Program	6 13 02	Department of Social Services
2688	R.246 SR26-5	General-Food Stamp Program	6 13 02	Department of Social Services
2610		In Car Camera Videotaping Equipment	6 16 02	Department of Public Safety
2663		Bonds for Water and Wastewater Utilities	7 03 02	Public Service Commission
2710		Non-Game and Endangered Species	7 05 02	Department of Natural Resources
2711		Foster Care	7 11 02	Department of Social Services
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2683		Requirements for Trade and Industrial Certification	7 17 02	Board of Education
2720		Communicable Diseases	7 17 02	Department of Health and Envir Control
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2721		Waste Combustion and Reduction	7 18 02	Department of Health and Envir Control
2715		Infectious Waste Management Regulations	7 18 02	Department of Health and Envir Control
2709		Nonpublic Postsecondary Institutions	7 19 02	Commission on Higher Education
2712		Residential Group Care Organizations for Children	8 21 02	Department of Social Services
2729		Fees	8 24 02	LLR: Board of Pharmacy
2731		Diseases and Health documentation	9 06 02	Clemson University
2727		Witchweed Quarantine	9 06 02	Clemson University
2733		Examination	9 12 02	LLR: Board of Chiropractic Examiners
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REQUESTED TO WITHDRAW (120 DAY REVIEW PERIOD TOLLED)

DOC No.	DATE	SUBJECT	AGENCY
2573	4 24 01	Food Stamp Program	Department of Social Services

RESOLUTION INTRODUCED TO DISAPPROVE (120 DAY REVIEW PERIOD TOLLED)

DOC No.	DATE	SUBJECT	AGENCY
2360	1 17 01	LIFE Scholarship	Commission on Higher Education
2629	4 03 02	Specific Project Stds for Tidelands Coastal	Department of Health and Envir Control

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2611	3 27 02	Highway Patrol, Wrecker Regulations	Department of Public Safety
2620	4 12 02	Percentage Storm or Wind/Hail Deduct	Department of Insurance
2722	4 23 02	Team Physicians; Limited Practice Permitted	LLR: Board of Medical Examiners

DEPARTMENT OF ARCHIVES AND HISTORY

ERRATA

This notice is submitted to include codification numbers omitted in final regulations published in the State Register on April 26, 2002. The corrections concern final regulations for 12-300 through 12-336 the General Retention Schedule for State Administrative Records (Document No. 2666), and for 12-700 through 12-757 the General Retention Schedule for State Financial Records (Document No. 2667). The corrected versions for both of these documents are printed here in their entirety.

12-300 through 12-336 General Retention Schedule for State Administrative Records

12-300 Introduction and general matters; application of schedule.

The following general records retention schedule contains minimum retention periods for the official copy of the agency's records. These retentions and dispositions apply regardless of physical format, i.e., paper, microfilm, electronic storage, digital imaging, etc. Convenience, informational or duplicate copies are not governed by this regulation and may be destroyed when no longer needed for reference. To destroy records in accordance with this regulation, state agencies must complete and submit a report of records destroyed form to the State Archives after eligible records have been destroyed. These forms are available from the Department's Division of Archives and Records Management. State agencies must also contact the State Archives to transfer permanent records to the State Archives for archival retention. Before disposing of public records under this general schedule, state agencies are responsible for ensuring that records are no longer required for federal or state audits, for legal purposes, for litigation, for fiscal information, and/or for any other action. This general schedule supersedes all schedules approved previously for the same records series. However, state agencies may opt out of this general schedule, and request the continuing use of existing schedules or the establishment of specific retention schedules for their records when appropriate, necessary or in order to avoid conflict with other laws and regulations.

12-301 Annual Accountability Reports

A. Description: Used to determine whether an agency is effectively achieving its legislative mission and program objectives. This record series is prepared by all state agencies and submitted to the Budget and Control Board for distribution to the General Assembly and the Governor's Office. Information includes an agency's mission statement, program objectives, work performance measurement data, analysis of program cost allocations, and related information. The record copy of this series is scheduled for permanent retention by the State Archives through the State Budget and Control Board's Office of Budget.

B. Retention: Until no longer needed for reference; destroy.

12-302 Meeting Minutes (Executive Levels)

A. Description: Used to document the meetings of an agency's executive staff which includes the director, the deputy director, and the division directors. Information includes agenda, place, date, list of attendees, and a summary of discussions and decisions. Also included are informational attachments which are closely related to the meeting minutes.

B. Retention:

- (1) Agency: 3 years.
- (2) State Archives: Permanent.

12-303 Meeting Minutes (Non-Executive Levels)

A. Description: Used to document the meetings of agency staff below the agency director, deputy director, and division director levels. Meetings may also include non-agency attendees. Information includes agenda, location, date, list of attendees, attachments, and a summary of discussions and decisions.

B. Retention: 2 years; destroy.

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12-304 Contracts

A. Description: Used to document the contractual relationship between agencies and service providers. Information includes the contract with description of the services to be provided, dates of the contract, signatures, and correspondence.

B. Retention: 3 years after cancellation or expiration of the contract; destroy.

12-306 Administrative Files (Executive Levels)

A. Description: Document actions of an agency director, deputy director and division directors. Information includes memoranda and reports concerning agency policy, organizational and program development records, strategic plans/mission statements, non-routine fiscal data, personnel information and related notes. These records reflect administration of policy, coordination of agency functions, and management of program activity.

B. Retention:

(1) Agency: 3 years after fiscal year. Microfilm optional.

(2) State Archives: Selection of needed documentation. Permanent.

12-307 Administrative Reference Files (Non-Executive Levels)

A. Description: Routine office management files retained below the agency director, deputy director and division director levels. Included are memoranda, reports, printed matter, and other reference materials. Topics include: job activities, program material, general office information, professional associations, charitable affairs, parking for staff, disaster preparedness, and other related topics.

B. Retention: Until no longer needed for reference; destroy.

12-308 Administrative Regulation Background Files

A. Description: Used for the general operation of agency programs. Information includes regulations; instructions; other issuances that establish methods to administer an agency's mission, functions, and responsibilities; and other related information.

B. Retention:

(1) Agency: Until superseded.

(2) State Archives: Selection of needed documentation. Permanent.

12-312 Attorney General Opinions

A. Description: Official opinions issued by the Attorney General or his assistants. These are legal interpretations written upon request of an agency to guide in enforcing and obeying the law. Also included is related correspondence. The record copy of this series is scheduled for permanent retention by the State Archives through the Attorney General's office.

B. Retention: Until superseded and no longer needed for reference; destroy.

12-316 Deeds and Leases to State Property Files

A. Description: Document deeds and leases to real property owned or used by the state. Information includes description and location of the property, maps, sale agreements, land acquisition forms, deeds, lease agreements, and related correspondence. The record copies of deeds and leases are scheduled for permanent retention by the State Archives through the State Budget and Control Board's Office of General Services.

B. Retention: Until property is sold, disposed of, or relinquished, and is no longer needed for reference; destroy.

12-317 General Correspondence (Non-Executive Levels)

A. Description: Routine correspondence created or retained below the levels of agency director, deputy director and division director. Letters and memoranda reflect communications regarding program procedures, general work activities, and responses to information requests.

B. Retention: Until no longer needed for reference; destroy.

12-318 Information Technology Plans

A. Description: Prepared by state agencies outlining their anticipated needs for information technology. Plans reflect information requirements, equipment needs, service specifications, cost, and technology purchase requests. The record copy of this series is scheduled for permanent retention by the State Archives through the State Budget and Control Board's Office of Research and Statistics.

B. Retention: 3 years; destroy.

12-321 Litigation Case Files

A. Description: Document judicial proceedings, which involve the agency. Files include some or all of the following documents: affidavits, summons and complaints, responses, orders of dismissals, notice and general appeal, laws and regulations applying to a particular case, legal briefs, transcripts of proceedings, orders, court decisions, and related information. Portions of this series are scheduled for permanent retention by the State Archives through the Attorney General's office. Court records in this series are also available in the court having jurisdiction over these cases.

B. Retention:

- (1) Agency: 6 years after the case is closed. Microfilm optional.
- (2) State Archives: Selection of needed documentation. Permanent.

12-323 Meeting Minutes (Boards and Commissions of State Agencies)

A. Description: Records of official proceedings of state agency governing bodies. Information includes agenda, date, place, list of attendees, and a summary of discussion and decisions. Official minutes also include all informational attachments such as reports, surveys, proposals, studies and charts distributed to members for discussion, and for use in making decisions on agency policy, planning and administrative matters.

B. Retention:

- (1) Agency: 3 years. Microfilm optional.
- (2) State Archives: Permanent.

12-326 Permanent Improvement Files

A. Description: Files concern construction of and permanent improvements to the agency's facilities. Information includes project proposal, capital improvement requests, authorizations to execute construction contracts, cost estimates, construction contracts, related memoranda, correspondence, blueprints, and specifications.

B. Retention:

- (1) Records created before 1980:
 - (a) Agency: Until completion of construction project and no longer needed for reference.
 - (b) State Archives: Selection of needed documentation. Permanent.
- (2) Records created in 1980 and later: Until completion of construction project and no longer needed for reference; destroy.

12-328 Property Inventories

A. Description: Itemized lists of fixed assets (except land and buildings) completed by state agencies. Information includes inventories of equipment, furniture, and other similar property.

B. Retention: 3 years; destroy.

12-330 Disaster/Emergency Preparedness and Recovery Plans

A. Description: Document the plans for protection and reestablishment of agency services and equipment in case of disaster. Information includes plan, procedures, checklists, and emergency phone numbers and addresses.

B. Retention: Until superseded by revised plan; destroy.

6 NOTICES

12-700 through 12-757 General Retention Schedule for State Financial Records.

Text:

12-700 Introduction and general matters; application of schedule.

The following general records retention schedule contains minimum retention periods for the official copy of the agency's records. These retentions and dispositions apply regardless of physical format, i. e., paper, microfilm, electronic storage, digital imaging, etc. Convenience, informational or duplicate copies are not governed by this regulation and may be destroyed when no longer needed for reference. Before disposing of public records under this general schedule, agencies must ensure that records have met all applicable federal and/or state audit, legal, litigation, fiscal and other retention requirements. To destroy records in accordance with this regulation, state agencies must complete and submit a report of records destroyed form to the State Archives after eligible records have been destroyed. This form is available from the Department's Division of Archives and Records Management. State agencies must also contact the Department of Archives and History in order to transfer permanent records to the State Archives for archival retention. This general schedule supersedes all schedules approved previously for the same records series. However, state agencies may opt out of this general schedule, and request the continuing use of existing schedules or the establishment of specific retention schedules for their records when appropriate, necessary or in order to avoid conflict with other laws and regulations. This general schedule does not apply to higher education institutions and state agencies whose accounting and financial records are not summarized in the Statewide Accounting and Reporting System.

12-701 Reconciliations

A. Description: Used monthly to reconcile an agency's record of internal accounting balances with recorded accounting balances from the Comptroller General's Office and the State Treasurer's Office. Information includes cash, expenditure and revenue account balances by mini code, subfund and/or object code; Statewide Accounting and Reporting System data; cash, investment and debt account balances at the State Treasurer's Office, if applicable; an explanation of exceptions or discrepancies; and related information.

B. Retention: 3 years; destroy.

12-702 Schedule of Federal Financial Assistance

A. Description: Used annually to report the federal financial activity of a state agency to the State Auditor's Office. The State Auditor's Office uses this information to prepare the Statewide Schedule of Expenditure of Federal Awards. Information includes title of federal program or grant, project and phase code, grant number, starting fund balance, receipts, expenditures, other additions, other deductions and ending balance.

B. Retention: 3 years; destroy.

12-703 Sole Source Procurement File

A. Description: Used to document procurements made when there is only one source for the required supply, service or construction item. This file contains Justification for Sole Source Procurement, Record of Sole Source Contracts, and quarterly reports of procurement actions. Information includes type of procurement, the basis for sole source determination, the reason no other vendor is suitable, date, name of governmental body, authorized signature and title. Also included is the purchase order number, item description, commodity code, dollar amount, each contractor's name, the amount and type of each contract, and a listing of supplies, services, or construction procured under each contract. Copies of quarterly reports concerning procurement actions are scheduled to be retained for five years by the State Budget and Control Board's chief procurement officers.

B. Retention: 3 years, destroy.

12-704 Trade – In Document File

A. Description: Used to document trade – in sale transactions which reflect property that is traded – in as partial or full payment for an agency purchase. This file contains Request for Trade – In Document and Record of Trade – In Sales. Information includes agency’s name, address, requestor’s name, location of property, agency contact person for viewing property, indication whether trade- in is being applied to sole source and new purchase. Also included are commodity code, description, purchase date, make, model – serial number, trade – in value, net cost, new item, purchase order number and related information.

B. Retention: 3 years, destroy.

12-717 General and Subsidiary Ledgers

A. Description: One or more series of computer or non-computer generated financial ledgers providing final year-to-date summary accounting data and a permanent audit trail for all fiscal receipt and disbursement transactions affecting any and all agency funds and accounts, including receipts and expenditures from all revenue sources, both public and private. Electronic records include annual accounting code data and computer system documentation needed to access accounting information. Since fiscal year 1981, accounting transactions have been captured in the Statewide Accounting and Reporting system of the Comptroller General’s Office. Selected records generated by this centralized accounting and reporting system are scheduled to be retained permanently in the State Archives through the Comptroller General’s Office.

B. Retention:

- (1) Ledgers created in or before fiscal year 1980-1981: State Archives: Permanent.
- (2) Ledgers created after fiscal year 1980-1981: 3 years, destroy.

12-721 Insurance Policies Files

A. Description: Document agency insurance policies and related correspondence and memoranda. Policies concern group hospital insurance, automobile liability, fire and extended coverage, and tort liability. Contents include endorsements from the Insurance Reserve Fund, renewals, changes, copies of policies, correspondence, information from insurance seminars and a listing of office contents and their values.

B. Retention: Until no longer needed for reference; destroy.

12-728 Emergency Procurement File

A. Description: Used to document the purchase of authorized emergency procurements. This file contains a Justification for Emergency Procurement, a Record of Emergency Contracts, and quarterly reports of procurement actions. Information includes type of emergency procurement, name of vendor, the basis for the emergency determination, date, the reason no other vendor is suitable, name of governmental body, and authorized signature. Also included are purchase order number, date, item description, commodity code and dollar amount, each contractor’s name, the amount and type of each contract, and a listing of supplies, services, or construction procured under each contract. Copies of quarterly reports concerning procurement actions are scheduled to be retained for five years by the State Budget and Control Board’s chief procurement officers.

B. Retention: 3 years, destroy.

DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL

In accordance with Section 44-7-200(C), Code of Laws of South Carolina, the public is hereby notified that a Certificate of Need application has been accepted for filing and publication May 24, 2002, for the following project(s). After the application is deemed complete, affected persons will be notified that the review cycle has begun. For further information, please contact Mr. Albert N. Whiteside, Director, Division of Planning and Certification of Need, 2600 Bull St., Columbia, SC 29201 at (803) 545-4200.

8 NOTICES

Affecting Beaufort County

Replace existing Computed Tomography (CT) Scanner with a Siemens multi-slice CT System.
Hilton Head Medical Center & Clinics
Hilton Head Island, South Carolina
Project Cost: \$1,083,495

Construction of a free-standing ambulatory surgery center with two (2) operating rooms.
The Outpatient Surgery Center of Hilton Head, LLC
Hilton Head Island, South Carolina
Project Cost: \$6,849,003

Affecting Charleston County

Major renovation and expansion to include construction of a new patient tower for the relocation of ambulatory surgery, cardiac services and a Medical/Surgical nursing unit with no change in licensed bed capacity.
Roper Hospital, Inc.
Charleston, South Carolina
Project Cost: \$71,371,523

Affecting Florence County

Software upgrade and minor renovations for existing Magnetic Resonance Imaging (MRI) Scanner.
Carolinas Hospital System
Florence, South Carolina
Project Cost: \$1,164,796

Affecting Greenville County

Upgrade of existing single-slice computerized tomography (CT) scanner at Allen Bennett Memorial Hospital to a spiral, dual-slice scanner and upgrade of existing single-slice CT scanner at Memorial Medical Office Building to a spiral, dual slice scanner.
Greenville Hospital System
Greenville, South Carolina
Project Cost: \$1,503,884

Affecting Richland County

Renovation and expansion of the Labor and Delivery areas, with no change in the licensed hospital bed capacity.
Palmetto Richland Memorial Hospital
Columbia, South Carolina
Project Cost: \$7,480,000

Establish an outpatient narcotic treatment program.
Starting Point, LLC
Columbia, South Carolina
Project Cost: \$221,146

Affecting Sumter County

Purchase of a new Computed Tomography (CT) Scanner for main hospital and moving of existing Scanner to Cancer Treatment Center with renovations.

Tuomey Healthcare System

Sumter, South Carolina

Project Cost: \$1,447,794

Affecting Union County

Conversion of five private patient rooms to semi-private rooms for the addition of five nursing home beds which will not participate in the Medicaid (Title XIX) program for a total of 113 nursing home beds.

Ellen Sagar Nursing Home

Union, South Carolina

Project Cost: \$6,000

In accordance with S.C. DHEC Regulation 61-15, the public and affected persons are hereby notified that the review cycle has begun for the following project(s) and a proposed decision will be made within 60 days beginning May 24, 2002. "Affected persons" have 30 days from the above date to submit comments or requests for a public hearing to Mr. Albert N. Whiteside, Director, Division of Planning and Certification of Need, 2600 Bull Street, Columbia, S.C. 29201. For further information call (803) 545-4200.

Affecting Beaufort County

Replace existing Computed Tomography (CT) Scanner with a Siemens multi-slice CT system.

Hilton Head Medical Center & Clinics

Hilton Head Island, South Carolina

Project Cost: \$1,083,495

Affecting Beaufort County

Construction and renovation for the expansion of Central Sterile Supply and the Materials Management areas; expansion of the Surgical Department to include 2 additional operating rooms for a total of 4 operating rooms and additional surgical support areas.

Hilton Head Medical Center and Clinics

Hilton Head Island, South Carolina

Project Cost: \$6,195,104

Affecting Greenville County

Upgrade of existing single-slice Computed Tomography (CT) scanner at Allen Bennett Hospital to a spiral, dual-slice scanner and upgrade of existing single-slice CT scanner at Memorial Medical Office Building to a spiral, dual-slice scanner.

Greenville Hospital System

Greenville, South Carolina

Project Cost: \$1,503,884

10 NOTICES

Affecting Orangeburg County

Construction of a freestanding ambulatory surgery center to include four (4) operating rooms.
Ambulatory Surgery Center of Orangeburg, LLC d/b/a Edisto Surgery Center
Orangeburg, South Carolina
Project Cost: \$4,957,074

Affecting Richland County

Establish an outpatient narcotic treatment program.
Starting Point, LLC
Columbia, South Carolina
Project Cost: \$221,146

Affecting Sumter County

Construction of an Outpatient Surgery Center and Medical Office Building to house three (3) floors of medical office space and one (1) floor of outpatient surgery space with four (4) operating rooms, 20 new pre- and post-operative beds and associated support space.
Tuomey Healthcare System
Sumter, South Carolina
Project Cost: \$22,785,221

Affecting York County

Initiation of mobile Positron Emission Tomography (PET) services three days per week.
AMISUB of South Carolina d/b/a Piedmont Healthcare System
Rock Hill, South Carolina
Project Cost: \$1,015,000

DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL

NOTICE OF CANCELLATION AND RESCHEDULING OF PUBLIC HEARING

The Department of Health and Environmental Control issued a Notice of Proposed Regulation to amend Regulation 61-15, Certification of Need for Health Facilities and Services, in the January 25, 2002, issue of the State Register, identified as Document No. 2718. The Notice scheduled a Staff-Informational Forum on February 25, 2002, a write-in comment period, and a Public Hearing scheduled before the DHEC Board on March 14, 2002. The Public Hearing scheduled for March 14, 2002 was postponed and rescheduled for April 11, 2002. The Public Hearing rescheduled for April 11, 2002 was also postponed and was rescheduled for May 9, 2002. Subsequently, the Public Hearing rescheduled for May 9, 2002 has also been postponed and is now rescheduled for June 13, 2002. The proposed regulation is being revised based on comments received. All comments received from the Staff Informational Forum and write-in public comment period which ended February 25, 2002, are being considered. All comments received through February 25, 2002, shall be submitted to the Board for consideration at the public hearing in a Summary of Public Comments and Department Responses.

The Public Hearing to be conducted by the Board of Health and Environmental Control for this proposed regulation has been rescheduled for June 13, 2002. The hearing will be held at the regularly-scheduled Board Meeting on June 13, 2002, in the Board Room of the Commissioner's Suite, Third Floor, Aycock Building of the Department of Health and Environmental Control, 2600 Bull St., Columbia, SC. The Board meeting commences at 10:00 a.m. at which time the Board will consider items on the agenda in the order presented. The order of presentation for public hearing on June 13, 2002, will be noticed in the Board's agenda to be published by the

Department ten (10) days in advance of the meeting. Interested persons are invited to make oral or written comments on the proposed regulation at the public hearing. Persons desiring to make oral comments at the hearing are asked to limit their statements to five minutes and, as a courtesy, are asked to provide written copies of their presentations for the record. Any comments made at the public hearing will be given consideration in formulating the final version of the regulations.

DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL

NOTICE OF GENERAL PUBLIC INTEREST

Public Notice #02-508-GP-N

May 24, 2002

The South Carolina Department of Health and Environmental Control (DHEC), Bureau of Air Quality, does hereby give notice of authorization being granted to the following sources who have requested coverage under General Conditional Major Operating Permit (GCMP-04) "Concrete Batch Plants." This general permit was previously opened for a 30-day public comment period on March 28, 2001, with final issuance on November 01, 2001. Pursuant to South Carolina Regulation 61-62.1, Section II G(7)(a) and (b), the Department may now grant coverage to those qualified sources seeking to operate under the terms and conditions of this general permit. The authorization of each facility's coverage shall be a final permit action for purposes of administrative review.

In accordance with the provisions of the Pollution Control Act, Sections 48-1-50(5) and 48-1-110(a), the 1976 Code of Laws of South Carolina, as amended, and Regulation 61-62 "Air Pollution Control Regulations and Standards," these sources are hereby granted permission to discharge air contaminants into the ambient air. The Bureau of Air Quality authorizes the operation of these sources in accordance with the plans, specifications and other information submitted by each facility in the General Conditional Major Permit application. Facilities operating under this permit seek to limit their potential to emit to below the thresholds which define a major source by complying with the federally enforceable conditions contained in this permit. Permit coverage is subject to and conditioned upon the terms, limitations, standards, and schedules contained in or specified on said permit.

Interested persons may review the final general permit, materials submitted by the applicant, and any written comments received, during normal business hours, at the following location: SC DHEC, Bureau of Air Quality, 2600 Bull Street, Columbia, South Carolina, 29201.

This notice is given pursuant to the requirements of South Carolina Regulation 61-62.1, Section II G(7)(c). Comments and questions concerning any of the following individual facilities' coverage under this permit should be directed to: Mr. Carl W. Richardson, P.E., Director, Engineering Services Division, Bureau of Air Quality, SC DHEC, 2600 Bull Street, Columbia, South Carolina, 29201 at (803) 898-4123.

ANDERSON COUNTY

The Lane Construction Corporation
I-85 – Exit #27
Anderson, South Carolina

CHARLESTON COUNTY

Wando Concrete, LLC (Charleston)
2025 Cherry Hill Lane
Charleston, South Carolina

YORK COUNTY

APAC Georgia, Inc.

12 NOTICES

Highway 77 – Carowinds Boulevard
Fort Mill, South Carolina

Vanceburg Ready Mix Concrete
3231 Highway 21
Fort Mill, South Carolina

DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL NOTICE OF GENERAL PUBLIC INTEREST

Public Notice #02-507-GP-N

May 24, 2002

The South Carolina Department of Health and Environmental Control (DHEC), Bureau of Air Quality, does hereby give notice of authorization being granted to the following sources who have requested coverage under General Conditional Major Operating Permit (GCMP-03) “Hot Mix Asphalt Plants.” This general permit was previously opened for a 30-day public comment period on March 28, 2001, with final issuance on February 01, 2002. Pursuant to South Carolina Regulation 61-62.1, Section II G(7)(a) and (b), the Department may now grant coverage to those qualified sources seeking to operate under the terms and conditions of this general permit. The authorization of each facility’s coverage shall be a final permit action for purposes of administrative review.

In accordance with the provisions of the Pollution Control Act, Sections 48-1-50(5) and 48-1-110(a), the 1976 Code of Laws of South Carolina, as amended, and Regulation 61-62 “Air Pollution Control Regulations and Standards,” these sources are hereby granted permission to discharge air contaminants into the ambient air. The Bureau of Air Quality authorizes the operation of these sources in accordance with the plans, specifications and other information submitted by each facility in the General Conditional Major Permit application. Facilities operating under this permit seek to limit their potential to emit to below the thresholds which define a major source by complying with the federally enforceable conditions contained in this permit. Permit coverage is subject to and conditioned upon the terms, limitations, standards, and schedules contained in or specified on said permit.

Interested persons may review the final general permit, materials submitted by the applicant, and any written comments received, during normal business hours, at the following location: SC DHEC, Bureau of Air Quality, 2600 Bull Street, Columbia, South Carolina, 29201.

This notice is given pursuant to the requirements of South Carolina Regulation 61-62.1, Section II G(7)(c). Comments and questions concerning any of the following individual facilities’ coverage under this permit should be directed to: Mr. Carl W. Richardson, P.E., Director, Engineering Services Division, Bureau of Air Quality, SC DHEC, 2600 Bull Street, Columbia, South Carolina, 29201 at (803) 898-4123.

HORRY COUNTY

APAC Carolina Inc. (Conway Plant #404)
154 Winyah Road
Conway, South Carolina

Southern Asplant
229 Yeager Avenue
Conway, South Carolina

DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL

NOTICE OF SETTLEMENT

CIVIL ACTION NO. 6:00-2570-20

UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH CAROLINA
GREENVILLE DIVISION

The South Carolina Department of Health and Environmental Control, Plaintiff, v. Henkel Corporation; Cognis Corporation; Millennium Petrochemicals, Inc. f/k/a Quantum Chemical Corporation f/k/a National Distillers and Chemical Corporation f/k/a Emery Industries, Inc. —→
f/k/a Trylon Chemicals, Inc.; Piedmont Chemicals, Inc. —→
Inc.; Ethox Chemicals, L.L.C.; Kellett's Fuel Oil; —→
Wilbur Greer; Clarence Buurman, and Bernard Korte, Defendants.

~~**SOUTH CAROLINA DEPARTMENT OF HEALTH
AND ENVIRONMENTAL CONTROL COST RECOVERY SETTLEMENT AGREEMENT**~~

~~**CR-
THE KELLETT SITESimpsonville, SC**~~

PLEASE TAKE NOTICE that the South Carolina Department of Health and Environmental Control ("DHEC" or the "State") intends to enter into a Settlement Agreement with the following parties (collectively referred to as "Settling Defendants"): Henkel Corporation; Cognis Corporation; Millennium Petrochemicals, Inc. f/k/a Quantum Chemical Corporation f/k/a National Distillers and Chemical Corporation f/k/a Emery Industries, Inc. f/k/a Trylon Chemicals, Inc.; Piedmont Chemicals, Inc.; Ethox Chemicals, L.L.C.; Wilbur Greer; Clarence Buurman; and Bernard Korte. The Settlement Agreement provides that upon approval by the Court, it shall be entered as a final judgment against the Settling Defendants. The Settlement Agreement is subject to a thirty-day public comment period, consistent with Comprehensive Environmental Response, Compensation, and Liability Act ("CERCLA") Section 122, 42 U.S.C. Section 9622 and the South Carolina Hazardous Waste Management Act ("SCHWMA").

The Settlement Agreement relates to the alleged release, and threatened release, of hazardous substances, pollutants, or contaminants at 230 East Standing Springs Road, Simpsonville, South Carolina, and surrounding areas impacted by the migration of hazardous substances, pollutants, or contaminants (collectively referred to as the "Site"). The Settlement Agreement provides for cleanup of the Site and recovery of costs from potentially responsible parties; specifically, past removal costs and future remedial costs at the Site. In consideration of the foregoing, the Settlement Agreement provides for a release of the Settling Defendants from further liability related to the matters covered by the Settlement Agreement and confers contribution protection upon Settling Defendants pursuant to CERCLA Section 113, 42 U.S.C. Section 9613.

The Settlement Agreement will be filed with the Court for approval. This Notice of Settlement is being mailed to all identified potentially responsible parties and other interested parties and/or entities, and shall be published in the State Register.

Copies of the Settlement Agreement and other papers related to this matter can be viewed and/or obtained by providing a written Freedom of Information request to the South Carolina Department of Health and Environmental Control at:

Freedom of Information Office
South Carolina Department of Health and Environmental Control
2600 Bull Street

14 NOTICES

Columbia, SC 29201-1708

Any comments must be submitted in writing, postmarked within thirty days of the date of this Notice of Settlement and Proposed Judgment, addressed to:

Samuel L. Finklea, Esquire
Office of General Counsel
South Carolina Department of Health and Environmental Control
2600 Bull Street
Columbia, SC 29201

UPON APPROVAL AND ENTRY OF THE SETTLEMENT AGREEMENT BY THE COURT, ANY AND ALL CLAIMS BY ANY AND ALL PERSONS AGAINST THE SETTLING DEFENDANTS SEEKING CONTRIBUTION FOR MATTERS ENCOMPASSED BY THE SETTLEMENT AGREEMENT SHALL BE FORECLOSED.

DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL

PUBLIC NOTICE

Section IV of R.61-98, the State Underground Petroleum Environmental Response Bank (SUPERB) Site Rehabilitation and Fund Access Regulation, requires that the Department of Health and Environmental Control evaluate and certify site rehabilitation contractors to perform site rehabilitation of releases from underground storage tanks under the State Underground Petroleum Environmental Response Bank (SUPERB) Act. Pursuant to Section IV.B.1, the Department is required to place a list of those contractors requesting certification on public notice and accept comments from the public for a period of thirty (30) days. If you wish to provide comments regarding the companies and individuals listed below, please submit your comments in writing, no later than June 24, 2002, to:

Contractor Certification Program
South Carolina Department of Health and Environmental Control
Bureau of Underground Storage Tank Management
Attn: Barbara Boyd
2600 Bull Street
Columbia, SC 29201

The following companies and individuals have applied for certification as Underground Storage Tank Site Rehabilitation Contractors:

Class I

Bensinger & Garrison Environmental, Inc.

DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL

NOTICE OF PUBLIC HEARING AND OPPORTUNITY FOR PUBLIC COMMENT ON PROPOSED DESIGNATION OF CAPACITY USE AREA

The South Carolina Department of Health and Environmental Control proposes the designation of Berkeley, Dorchester and Charleston Counties as the Trident Capacity Use Area pursuant to S.C. Code Section 49-5-60. Interested persons are invited to make oral or written comments on the proposed capacity use area at a public

hearing to be conducted by the Board of Health and Environmental Control at its regularly-scheduled meeting on July 11, 2002. The public hearing will be held in the Board Room of the Commissioner's Suite, Third Floor, Aycock Building, of the Department of Health and Environmental Control at 2600 Bull Street, Columbia, S.C. The Board meeting commences at 10:00 a.m. The Board's agenda will be published prior to the meeting. Persons desiring to make oral comments at the hearing are asked to limit their statements to five minutes and, as a courtesy, are asked to provide written comments of their presentations for the record.

Interested persons are also provided an opportunity to submit written comments on the proposed capacity use area by writing to Mr. David Baize at SCDHEC, Bureau of Water, 2600 Bull St., Columbia, SC, 29201. Written comments must be received no later than 5:00 p.m. on June 24, 2002. Comments received by the deadline date will be submitted in a Summary of Public Comments and Department Responses for the Board's consideration at the public hearing.

SCDHEC's technical report on groundwater conditions in the Trident area is available on the Internet at <http://www.scdhec.net/eqc/water/pubs/tridentrpt.pdf>. SCDHEC's Fact Sheet summarizing the groundwater conditions in the Trident area and general information about the Capacity Use Program are available at <http://www.scdhec.net/eqc/water/pubs/trifact.pdf>. In addition, a copy of the report and fact sheet may be obtained by contacting Ms. Gloria Lathan at 803 898-4267.

16 DRAFTING

BOARD OF EDUCATION

CHAPTER 43

Statutory Authority: S.C. Code Ann. Sections 59-5-60 (1990), 59-5-65 (1990 and Supp. 2001), and 59-18-30 (Supp. 2001)

Notice of Drafting:

The State Board of Education proposes to repeal in its entirety 24 S.C. Code Ann. Regs. 43-301 (Supp. 2001), Intervention Where Quality of Education in a Local School District Is Impaired. Interested persons may submit comments to Dr. Leonard McIntyre, Deputy Superintendent, Division of Professional Development and School Quality, State Department of Education, 1429 Senate Street, Room 1102, Rutledge Building, Columbia, South Carolina 29201. To be considered, comments must be received no later than 5:00 p.m. on June 7, 2002, the close of the drafting comment period.

Synopsis:

The Education Accountability Act of 1998 repealed S.C. Code Ann. Section 59-18-30 (Supp. 2001) related to intervention in impaired school districts. The Accountability Act provides the specifics of a system of intervention based on school report card ratings. Regulation 43-301 deals with intervention in impaired districts and is no longer needed.

Legislative review of this proposal will be required.

DEPARTMENT OF LABOR, LICENSING AND REGULATION

LIQUEFIED PETROLEUM GAS BOARD

CHAPTER 71

Statutory Authority: 1976 Code Sections 40-1-40 and 40-82-70

Notice of Drafting:

The Liquefied Petroleum Gas Board is proposing to amend Regulation 71-8304 to update the reference to the National Fire Protection Association (NFPA) Pamphlets referenced in the current regulation. The Board specifically invites comments concerning local conditions that might require amendment of the NFPA standards for use in South Carolina. Interested persons should submit their views in writing to Robert Polk, Fire Marshal, Department of Labor, Licensing and Regulation, Post Office Box 11329, Columbia, South Carolina 29211-1329.

Synopsis:

The proposed change will update the reference to NFPA Pamphlets, which provide minimal general standards for the design, construction, location, installation and operation of equipment for storing, handling, transporting by truck or trailer, and utilizing liquefied petroleum gases.

Filed: April 25, 2002, 12:00 Noon

Document No. 2742
CLEMSON UNIVERSITY
LIVESTOCK-POULTRY HEALTH DIVISION
CHAPTER 27

Statutory Authority: 1976 Code Sections 47-4-30(A), 47-13-029m, 47-13-540, 47-13-810,
47-13-1020, 47-15-40, 47-15-70

Emergency Situation:

A serious avian disease known as Avian Influenza, Type H7N2, has been diagnosed in the Shenandoah Valley of Virginia and portions of North Carolina. Avian Influenza is a highly contagious and infectious viral disease that affects poultry, game birds and waterfowl. This disease poses a significant threat to the South Carolina avian industry. SC Code Section 47-4-30(A) empowers the Commission and the State Veterinarian to prohibit or regulate the importation of animals into this state whenever it is necessary to protect the health of animals in South Carolina.

27-_____ Poultry Import Restrictions

Poultry from states having flocks that have tested positive for Avian Influenza are prohibited entry into South Carolina for the purposes of exhibition or live bird sale until 30 days after the last depopulation, cleaning and disinfection of the final confirmed Avian Influenza premise in the positive state. Poultry having participated in exhibitions conducted in a positive state after March 1, 2002, must test negative for Avian Influenza prior to participation in a South Carolina exhibition.

18 FINAL REGULATIONS

Document No. 2631
DEPARTMENT OF CONSUMER AFFAIRS
CHAPTER 28
Statutory Authority: 1976 Code Section 40-68-20

Staff Leasing Services.

Synopsis:

Based on the Department of Consumer Affairs' review of the current Regulations for Staff Leasing Services and input from the regulated community, the Department proposes to amend the Regulations by revising existing Regulations 28-910, 28-920, 28-940, 28-955, and 28-990. The Department also proposes to amend the Regulations by adopting new Regulations 28-915, 28-933, 28-936, and 28-956. The proposed amendments are intended to update the Regulations in order to make them more effective in regulating the staff leasing services industry.

Discussion of Revisions

28-910. Application Procedure; Application Form; Confidential Information; Denial of Application; Request for Hearing; Positive Net Worth.

The Department proposes to amend Regulation 28-910 to change the Department's office address where applicants may visit to obtain application materials. The Department's new office address is 3600 Forest Drive, Third Floor, Columbia, S.C. 29204. The proposed amendments will also clarify the Department's procedures for handling incomplete/deficient applications by establishing a time limit of 90 days from the date of notification by the Department by which applicants must complete or correct application materials without penalty.

28-920. Annual Assessment on Gross South Carolina Payroll.

The Department proposes to amend Regulation 28-920 to change the type of documentation required from licensees to verify gross South Carolina payroll for annual assessment purposes. Under the proposed amendment, licensees will be required to submit to the Department copies of all South Carolina Department of Revenue "Fourth Quarter/Annual Reconciliation of Income Tax Withheld", form WH-1606, forms. Additionally, the proposed amendment will establish a late payment penalty of \$150.00 for assessment fees submitted after the April 30 deadline.

R28-940. Quarterly Financial Reporting and Maintenance of Positive Working Capital.

The Department proposes to amend Regulation 28-940 to assess a late reporting fee of \$50.00 for quarterly reports that are submitted after the established deadlines without the Department's prior approval.

R28-955. Restricted License.

Amendments to Regulation 28-955 are proposed to exempt applicants who are qualified and approved for a restricted license from normal requirements for licensure. The proposed amendment will also clarify the term of the restricted license (1 year), and the corresponding licensing fees (\$250.00 for a staff leasing services company and \$500.00 for a staff leasing services group).

R28-990. Disciplinary Guidelines.

An amendment to Regulation 28-990 is proposed to establish disciplinary guidelines for client companies that knowingly do business with unlicensed staff leasing companies. Under the proposed amendment, client companies may be imposed a penalty of \$50.00 per employee for each day the violation continues.

R28-915. License Renewal Procedures. Inactive License Renewal.

The Department proposes to draft Regulation 28-915 to establish license renewal procedures and to establish penalties for active licensees who fail to renew their license. The new regulation will require licensees to submit renewal applications within 60 days of the license's expiration date. A license that is not renewed shall automatically become delinquent. In addition, under Regulation 28-915, the period of time that a licensee can operate without renewing their license will be limited to 30 days from the license's expiration date. Licenses delinquent for a period of 30 days or less will be assessed a delinquent fee of \$300.00. Licenses delinquent more than 30 days shall become void without further action by the Department.

R28-933. Annual Audited Financial Statements.

The Department also proposes to draft Regulation 28-933 to require annual audited financial statements be submitted to the Department for staff leasing companies with \$7,500,000.00 or more in gross South Carolina payroll.

R28-936. Annual Reviewed Financial Statements.

The Department proposes to draft Regulation 28-936 to allow reviewed financial statements to be submitted for staff leasing companies with less than \$7,500,000.00 in gross South Carolina payroll.

R28-956. Notification of Limited Operation.

The Department proposes to draft Regulation 28-956 to outline the requirements for certain staff leasing companies that meet specific requirements to operate in the State by notification only. In addition, this regulation will establish a notification service fee in the amount of \$250.00 for those companies that are approved to operate in this capacity.

Instructions: Amend staff leasing regulations pursuant to each individual instruction provided with the text of the amendment below.

Text:**R28-910. Application Procedure; Application Form; Confidential Information; Denial of Application; Request for Hearing; Positive Net Worth.****Replace 28-910 (1) to read:**

(1) A person may not engage in or offer staff leasing services in South Carolina without holding a license issued under Title 40. Applicants for licensure as a staff leasing person or as a controlling person shall file a completed application on Form DCA/SL001, "Application for Licensure as a Staff Leasing Company or Controlling Person", effective January 1, 1994. The form, together with its attached instructions for completing the form, is incorporated herein by reference and may be obtained from the Department's office at 3600 Forest Drive, Third Floor, Columbia, S.C. 29204. For purposes of this rule, an application is complete when all items on the application have been fully answered, the applicant has paid the application fee specified in subsection (2), and has submitted all attendant documentation, certifications, fingerprint cards, explanations of answers, and other items specified in the form and its attached instructions. Applicants shall cure all deficiencies in their application noted by the Department within 90 days from the date of the letter notifying the applicant or the application will be denied as an incomplete application. Applicants who have not cured all deficiencies within 90 days will be required to re-file with the Department a complete written application accompanied by the non-refundable application fee specified in subsection (2).

20 FINAL REGULATIONS

R28-915. License Renewal Procedures. Inactive License Renewal.

Add new regulation 28-915 to read:

(1) Licensee's shall submit renewal applications to the Department within 60 days of the expiration date of the current license.

(2) In the event any licensee fails to renew the license, the license shall automatically become delinquent. A license delinquent 30 days or less may be returned to active status by the payment of the biennial license renewal fee plus a delinquent fee of \$300.00.

(3) A license delinquent more than 30 days shall become void without further action by the Department.

R28-920. Annual Assessment on Gross South Carolina Payroll.

Replace 28-920 (2) to read:

(2) In order to ensure compliance with the requirements of subsection (1), each licensee shall annually submit a statement of total gross South Carolina payroll, along with copies of all South Carolina Department of Revenue "Fourth Quarter/Annual Reconciliation of Income Tax Withheld", form WH-1606, forms for the preceding calendar year.

Add new Section (4) to 28-920 to read:

(4) Licensees who do not submit assessment fees to the department by the April 30 deadline must pay the assessment fee plus a late penalty fee of \$150.00.

R28-933. Annual Audited Financial Statements.

Add new regulation 28-933 to read:

(1) For each staff leasing company or staff leasing company group with gross South Carolina payroll of \$7,500,000.00 or more, annual audited financial statements must be submitted to the Department.

(2) For any fiscal year beginning January 1, 2000, and for every subsequent fiscal year, audited financial statements must be submitted to the Department within 120 days of the licensee's fiscal year end. For purposes of this rule, "submitted" means that the audited financial statement must be postmarked within 120 days of the end of the fiscal year.

(3) All audited financial statements must be prepared in accordance with generally accepted accounting principles (GAAP), and generally accepted auditing standards (GAAS) must be used. All financial statements must be prepared in a manner prescribed by the Department.

R28-936. Annual Reviewed Financial Statements.

Add new regulation 28-936 to read:

(1) For each staff leasing company or staff leasing company group with gross South Carolina payroll of less than \$7,500,000.00, annual reviewed financial statements or higher level of assurance must be submitted to the Department.

(2) For any fiscal year beginning January 1, 2000, and for every subsequent fiscal year, reviewed financial statements must be submitted to the Department within 120 days of the licensee's fiscal year end. For purposes of this rule, "submitted" means that the reviewed financial statement must be postmarked within 120 days of the end of the fiscal year.

(3) All reviewed financial statements must be prepared in accordance with generally accepted accounting principles (GAAP), and AICPA Statements of Standards for Accounting and Review Services (SSARS).

R28-940. Quarterly Financial Reporting and the Maintenance of Positive Working Capital.**Replace 28-940 (1) to read:**

(1) In order to be in compliance with the net worth requirements of Section 40-68-40(E), S.C.S., licensed staff leasing companies and staff leasing groups are required to file a quarterly financial attestation with the department. This quarterly attestation report (DCA/SL002) shall be executed by the chief financial officer, the chief executive officer, and a controlling person of the staff leasing company. Copies of the current quarter's balance sheet and income statement shall be submitted with the quarterly financial attestation report. Quarterly financial statements are due to be submitted to the department within 75 days after the end of each quarter. Quarterly financial reports that are submitted late without prior approval from the Department will be assessed a late reporting fee of \$50.00. The following attestations will be made in the quarterly report.

28-955. Restricted License.**Add new Section (4) to 28-955 to read:**

(4) Qualification and approval of a restricted license will exempt the company from other normal requirements for licensure. The annual fee for a limited license shall be \$250.00 for a staff leasing company and \$500.00 for a staff leasing services group.

28-956. Notification of Limited Operation.**Add new regulation 29-956 to read:**

(1) Upon written notification to the Department, a non-resident staff leasing company may assign, without a license, employees to client operations in South Carolina under the following conditions:

(a) The staff leasing company's state of residence (home state) does not regulate or license staff leasing services.

(b) The staff leasing company will not solicit or engage in staff leasing services in South Carolina.

(c) The client company is in the start-up phase for new operations in South Carolina.

(d) The total number of assigned employees for all clients will not exceed forty.

(e) The staff leasing company notifies the Department in writing by completing the proper notification form and by submitting a \$250.00 notification service fee.

28-990. Disciplinary Guidelines.**Add new Section (6) to 28-990 to read:**

(6) Any client company, which knowingly does business with an unlicensed employee leasing company, may be fined by the department up to \$50.00 per employee for each day the violation continues.

Fiscal Impact Statement:

There will be no additional cost incurred by the State and its political subdivisions in complying with the final regulations.

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Resubmitted March 18, 2002

Document No. 2613
STATE BOARD OF EDUCATION
CHAPTER 43

Statutory Authority: S. C. Code Ann. Sections 59-5-60 (1990), 59-1-445 (Supp. 1990), 59-18-310 (Supp. 2000), 59-18-320 (Supp. 2000), 59-18-330 (Supp. 2000), 59-20-60 (4) (c) (Supp. 2000), 59-18-340 (Supp. 2000), and 59-30-10 et seq. (Supp. 2000)

43-262. Assessment Program

Synopsis:

The proposed amendments to R 43-262 are intended to update the regulation to make it consistent with the requirements of current legislation. Section A redefines the statewide assessment program to make it consistent with the provisions of the Education Accountability Act of 1998 (EAA) and defines the responsibilities of the State Department of Education and local school boards in implementing the program. Section B updates the requirements relative to the high school exit examination. Section C addresses first and second grade readiness tests, and ensures that provisions are consistent with the EAA. Section D addresses the norm-referenced test.

Instructions:

Amend and replace in its entirety Regulation 43-262, Assessment Program, in Chapter 43, of Regulation and amend Article 19, Table of Contents.

Text:

43-262 Assessment Program.

A. STATEWIDE ASSESSMENT PROGRAM

1. The Basic Skills Assessment Program legislation of 1978 (BSAP), S.C. Code Ann. § 59-3-10, et seq. (1990 and Supp. 2000) and the Education Accountability Act of 1998 (EAA), S.C. Code Ann. § 59-18-310 (Supp.2000) require that the State Board of Education develop or adopt a statewide assessment program in certain grades and selected content/skill areas.

2. The statewide assessment program will involve testing public school students at selected grade levels and in selected content and skill areas at times specified by the State Department of Education. The grade(s) and content/skill areas to be included in the assessment program are identified by the BSAP legislation and the EAA and State Board of Education regulations.

The statewide assessment program includes

Grades 3-8 Palmetto Achievement Challenge Tests,
Grade 10 Exit Examination, and
End-of-Course Tests—in grades 9-12.

3. The program is funded through an annual appropriation included in the South Carolina General Appropriations Act. The request for such funding is included in the annual budget request of the State Superintendent of Education. Continued operation of the program is contingent upon the availability of funds.

4. Responsibilities of the State Department of Education for assessments in which school boards are required to participate.

- a. Supply all test materials, scoring, and standard score reports at no cost to the local school districts.
- b. Pay all shipping costs for the transportation of test materials and score reports between the Department, school districts, and scoring service(s).
- c. Provide workshops on test administration, interpretation, and utilization for district test coordinators and other selected staff.
- d. Report the statewide results of the program to the State Board of Education on an annual basis.
- e. Field-test, at the discretion of the State Superintendent of Education, new assessment instruments and/or procedures and recommend changes in the Statewide Assessment Program to the State Board of Education and the Education Oversight Committee.

5. Responsibilities of local school boards

- a. As used in these regulations, “local school board” shall mean the governing boards of public school districts as well as those of other state-supported educational institutions that award state high school diplomas.
- b. Participate in the assessment program as required by law.
- c. Designate one or more district test coordinators who will attend the workshops provided by the State Department of Education.
- d. Distribute the test materials to appropriate school district personnel, ship the tests and/or answer sheets to the scoring center(s), and distribute score reports to appropriate school district personnel.
- e. Administer the tests in accordance with procedures and at times specified by the State Department of Education.
- f. Maintain a complete and accurate inventory of all state-owned tests and related materials that are stored in the district.

6. All school districts shall administer the tests on dates and at times specified by the State Superintendent of Education or his or her designee.

7. Students with disabilities shall be included in the assessment program in compliance with the provisions of South Carolina and federal statutes and regulations.

8. Exit Exam Regulation (See Section B of this Regulation).

9. End-of-Course Tests.

B. SOUTH CAROLINA HIGH SCHOOL EXIT EXAMINATION

1. For the purpose of identifying those eligible to take the exit examination, a “tenth grader” and a “twelfth grader” shall be defined by the number and type of academic credits earned.

a. A “tenth grader” shall mean any student in a South Carolina public secondary school or adult education program who has successfully completed the number of Carnegie units specified by the local school board of trustees as necessary to be classified as a tenth grader and is classified as a tenth grader provided,

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however, that the student has at least one unit each in language arts and mathematics and is enrolled in courses leading to an additional unit of credit in both language arts and mathematics.

b. A “twelfth grader” shall mean any student in a South Carolina public secondary school or adult education program who has successfully completed the number of Carnegie units specified by the local school board of trustees as necessary to be classified as a twelfth grader.

2. The exit examination required by the Basic Skills Assessment Program (BSAP), S.C. Code Ann. § 59-30-10, et seq. (1990 and Supp. 2000), shall be in standard written American English, braille, and signed language and shall consist of subtests in reading, writing, and mathematics based upon the Basic Skills Assessment Program objectives or their equivalent. The requirement for passing the BSAP exit examination shall remain in effect in accordance with a timeline approved by the State Board of Education. The current timeline and any subsequent amendments will be published in the *State Register*.

3. The exit examination required by the Education Accountability Act of 1998 (EAA), S.C. Code Ann. §59-18-310 (Supp. 2000) shall be in standard written American English, braille, and signed language and shall consist of subtests in English language arts, mathematics, science, and social studies based on South Carolina curriculum standards. The requirement for passing the EAA exit examination shall be in effect in accordance with a timeline approved by the State Board of Education. The current timeline and any subsequent amendments will be published in the *State Register*.

4. Accommodations and modifications, if any, for special populations (e.g., Limited English Proficient students and students with documented disabilities) taking either the BSAP or EAA exit examination shall be consistent with state and federal statutes and regulations.

5. To pass the exit examination, each student shall meet the minimum performance standard established by the State Board of Education on each subtest of the exit examination.

6. A student who is enrolled in the South Carolina public school system for the entire tenth-grade, eleventh-grade, and twelfth-grade years and remains actively enrolled and in good standing until graduation shall have a minimum of four opportunities to pass the examination.

7. Any student who fails to pass the exit examination shall take an equivalent form of only the particular subtest(s) on which he or she did not meet the minimum performance standard(s).

8. Any student who fails to pass the exit examination and who is actively enrolled in school shall have one opportunity per year to pass an equivalent form of the examination by meeting the minimum performance standard in effect at the time of the test administration, except that during the twelfth grade the student shall have two opportunities to pass an equivalent form of the examination.

9. Local school boards shall insure a. that the administration and security procedures established by the State Department of Education for the purpose of the exit examination are implemented;

b. that students and parents/guardians are adequately notified that passage of the exit examination is a requirement for a state high school diploma; notification shall be

(1) written,

(2) issued through an established procedure, and

(3) issued to students and parents/guardians by the seventh grade or upon entry into the system, whichever occurs later;

c. that the exit examination administration schedules are publicized;

d. that students who are recommended for a state high school diploma have passed all subtests of the exit examination;

e. that students who do not pass a particular subtest(s) of the exit examination are provided academic assistance related to the subtest(s) not passed;

f. that students with disabilities who are not candidates for a high school diploma and for whom the exit examination is not appropriate are identified in a timely manner;

g. that students who have met all other requirements for graduation but have not passed the exit examination are advised that they may elect one of the following alternatives:

(1) to accept, in lieu of a state high school diploma, a state certificate indicating the number of credits earned and the grades completed;

(2) to continue active enrollment in the school until he or she either passes the exit examination or reaches the age of twenty-one; or

(3) to accept a state certificate and acquire additional opportunities to pass the exit examination by enrolling in an adult education program.

h. The State Superintendent of Education may through administrative action address any special situations not covered by these South Carolina High School Exit Examination regulations or by any policy, guidelines, or procedures pursuant hereto. Any administrative action taken under this regulation will be presented to the State Board of Education during the next regularly scheduled meeting of the Board.

i. The State Superintendent of Education is authorized to develop and implement such administrative procedures as he or she may deem necessary and appropriate for the purpose of implementing the South Carolina Statewide Assessment Program.

C. READINESS TESTS FOR FIRST AND SECOND GRADE

1. Readiness tests first-and second-grade will be administered.

2. Each local school board in South Carolina shall adopt and implement appropriate policies and procedures pertaining to students who have not met the required standards for the first grade test so as to ensure that

a. the parent(s) or guardian(s) of each child so identified shall be notified in writing not later than fifteen (15) school days after the school district receives the results of the readiness test; a copy of the written notice shall be filed in the scholastic records of the student and the notice shall contain at least

(1) advice to the parent(s) or guardian(s) to obtain a “complete physical examination” for the child;

(2) information about local governmental health services that are available; and

(3) a request that the results of the physical examination, if obtained, be reported to the appropriate school or district authorities who shall be designated by the school district.

b. each child so identified is provided an appropriate developmental curriculum in the first grade; and

c. the parent(s) or guardian(s) of each child so identified is given explanations of deficiencies and suggestions as to appropriate assistance that the parent(s) or guardian(s) may give the child.

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3. Each local school board in South Carolina shall adopt and implement appropriate policies and procedures pertaining to students who have not met the required standards for the second grade test so as to ensure that

a. each child so identified is provided an appropriate developmental curriculum in the second grade, and

b. the parent(s) or guardian(s) of each child so identified is given explanations of deficiencies and suggestions as to appropriate assistance that the parent(s) or guardian(s) may give the child.

D. NORM-REFERENCED TEST

A norm-referenced test selected by the State Board of Education shall be administered annually to a sample of students in at least three grades from grades three to eleven.

Fiscal Impact Statement:

The Department of Education estimates the cost incurred by the State and its political subdivisions in complying with the proposed amended regulation will be approximately \$1,300,000 for FY 2003, \$1,500,000 for FY 2004, \$1,700,000 for FY 2005, \$1,900,000 for FY 2006, \$2,000,000 for FY 2007 and \$2,100,000 plus inflation for FY 2008 and thereafter. This estimated cost is based on projected student enrollments, current contract prices, and adjustments for inflation.

Document No. 2659
STATE BOARD OF EDUCATION
CHAPTER 43

Statutory Authority: S.C. Code Ann. Sections 59-5-60 (1990) and 59-18-300 (Supp.2000), 59-18-310(B) (Supp. 2000), and 59-18-320(C) (Supp. 2000)

43-262.4. End-of-Course Tests

Synopsis:

The Department proposes Regulation 43-262.4, End-of-Course Tests, to define gateway and benchmark courses for which end-of-course tests must be developed, to establish the purposes and uses of the tests, to provide for the establishment of standards for the tests, and to provide for notice to students.

Section-by-Section Discussion

Section A.: Addresses courses tested.

Section B.: Addresses purposes and uses of the end-of-course tests.

Section C.: Addresses content of the tests.

Section D.: Addresses student performance standards.

Section E.: Addresses review of curriculum standards and end-of-course tests.

Section F.: Addresses notice to students.

Instructions:

Add new R.43-262.4, End-of-Course Tests, to Chapter 43, Article 19.

Text:

262.4 End-of-Course Tests

A. Courses Tested

(1) The following courses and course codes in State Board Regulation 43-234, "Defined Program, Grades 9–12," are "gateway" and "benchmark" courses. For the purposes of this regulation, however, these courses shall be referred to only as "gateway" courses.

(a) English/language arts: English (3011).

(b) Mathematics: Algebra I (4111). After completion of Mathematics for the Technologies II students shall be administered the end-of-course examination for Algebra (4111).

(c) Science: Biology (3221) and Physical Science (3211). After completion of Applied Biology II, students shall be administered the end-of-course assessment for Biology (3221).

(d) Social Studies: United States History and Constitution (3320).

(2) The end-of-course tests shall be administered to all public school students who take the gateway courses for credit that can be applied toward the requirements for a high school diploma, regardless of the grade in which a student takes the course.

B. Purposes and Uses

The purposes and uses of the end-of-course tests shall be as follows:

(1) The tests shall promote instruction in the specific academic standards for the courses, encourage student achievement, and document the level of students' mastery of the curriculum standards.

(2) The tests shall serve as indicators of program, school, and school district effectiveness in the manner prescribed by the Education Oversight Committee in accordance with the provisions of the Education Accountability Act of 1998 (EAA).

(3) The tests shall be weighted 20 percent in the determination of students' final grades in the gateway courses.

The tests may be used for such other purposes as the State Board of Education may determine to be appropriate and consistent with the Standards for Educational and Psychological Testing (Joint Standards) of the American Psychological Association, the American Educational Research Association, and the National Council on Measurement in Education.

C. Content of the Tests

The content of the subject-area tests that are selected or developed pursuant to the provisions of this policy shall be aligned with the curriculum standards approved by the State Board of Education. For mathematics, English/language arts and social studies, end-of-course tests will be based on the revised Board-approved standards following the first cyclical review of the standards required by the EAA.

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D. Student Performance Standards

Student performance standards for the tests shall be established by the State Department of Education.

E. Review of Curriculum Standards and End-of-Course Tests

The curriculum standards for the tests shall be reviewed on a schedule that is consistent with the requirements of the EAA. Following any revisions of the academic standards, the tests will be reviewed and revised as necessary to ensure their continued alignment with the standards.

F. Notice to Students

Students who are enrolled in the gateway courses shall be provided with copies of the curriculum standards that pertain to those particular courses. Students will be advised that the final examination for each gateway course will be based on the skills and content represented in the curriculum standards. District personnel shall provide this information to students not later than the first day of instruction in the course.

Fiscal Impact Statement:

The Department of Education estimates the cost incurred by the State and its political subdivisions in complying with the proposed regulation will be approximately \$1,020,000 for FY 2002, \$3,140,000 for FY 2003, \$1,940,000 for FY 2004 and FY 2005, and \$2,790,000 for FY 2006, plus inflation and any necessary adjustments if secondary school enrollment increases for FY 2004 and each year thereafter. Please note that the FY02 budget does not include funding or staff for end-of-course development.

Document No. 2637

DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL

CHAPTER 61

Statutory Authority: Section 48-1-60, S.C. Code of Laws, 1976

R. 61-69, *Classified Waters*

Synopsis:

These amendments will reclassify waters of and surrounding Hunting Island State Park (excluding the Atlantic Ocean) from Class Shellfish Harvesting Waters (SFH) to Class Outstanding Resource Waters (ORW) to protect and maintain outstanding ecological and recreational resources.

Instructions:

Amend R.61-69 pursuant to each instruction provided below.

Add the following text to read:

Waterbody Name	Counties	Class	Waterbody Description and (Site-specific Standard)
Johnson Creek	Bfirt	ORW	The entire stream tributary to Harbor River and Atlantic Ocean
Old House Creek	Bfirt	SFH	The entire stream tributary to Fripps Inlet
Story River	Bfirt	SFH	The entire river to Trenchards Inlet and Fripps Inlet

Unnamed Creek (Old Island) Tributary to Fripps Inlet	Bft	SFH	The entire stream tributary to Fripps Inlet
Unnamed Creek (Fripps Island) Tributary to Fripps Inlet	Bft	SFH	The entire stream tributary to Fripps Inlet
Unnamed Creek (St. Helena Island) Tributary to Harbor River	Bft	SFH	The entire stream tributary to Harbor River
Unnamed Creek (Harbor Island) Tributary to St. Helena Sound	Bft	SFH	The entire stream tributary to St. Helena Sound
Ward Creek	Bft	SFH	The entire stream tributary to Harbor River

Amend the following Waterbody Name and Class to read:

Waterbody Name	Counties	Class	Waterbody Description and (Site-specific Standard)
Fripps Inlet	Bft	ORW	The entire stream tributary to Atlantic Ocean

Amend the following Class and Waterbody Description to read:

Harbor River	Bft	ORW	The entire stream tributary to St. Helena Sound and Fripps Inlet
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Fiscal Impact Statement:

There are no anticipated costs to the State and this regulation does not impose any mandates on local governments. This regulation will protect the waters of Hunting Island State Park from discharges from domestic, industrial, and agricultural discharges.

Statement of Need and Reasonableness:

This statement was determined by staff analysis pursuant to S.C. Code Section 1-23-115.

DESCRIPTION OF THE REGULATION: Amendment of Regulation 61-69, *Classified Waters*.

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Purpose of the Regulation: The purpose of these amendments is to reclassify the waters of Hunting Island State Park (excluding the Atlantic Ocean) from Class SFH to Class ORW to protect and maintain outstanding recreational and ecological resources.

There are two references to “Fripp Inlet” in R.61-69, which are inconsistent with the official name shown on the U.S. Geological Survey Map. The Department proposes to amend those references to “Fripps Inlet” for consistency.

The water use classifications in R.61-69 apply to every waterbody in the state, even if the waterbody is not specifically named in the regulation. In such cases where a waterbody is unnamed in R.61-69, the water use classification to which it is tributary applies. For example, Johnson Creek is unnamed in R.61-69 and is tributary to both the Harbor River and the Atlantic Ocean. The waters surrounding Hunting Island, including Harbor River, the Atlantic Ocean, and Fripps Inlet are classified SFH in the regulation. As an unnamed tributary to Harbor River and the Atlantic Ocean, Johnson Creek is also classified SFH. Therefore, any of the waters of Hunting Island State Park that are unnamed in R.61-69, and are tributary to any of the these waterbodies, are also classified SFH.

Legal Authority: 1976 S.C. Code of Laws, Section 48-1-60.

Plan for Implementation: The amendments would be incorporated within R.61-69 upon approval of the General Assembly and publication in the *State Register*. The amendments would be implemented in the same manner in which the present regulation is implemented.

DETERMINATION OF NEED AND REASONABLENESS OF THE REGULATION AND THE EXPECTED BENEFIT: Hunting Island State Park includes such assets as semi-tropical barrier islands, maritime forests, marshlands, hummocks, and beaches. The park supports an abundance of wildlife including Loggerhead turtles, alligators, and many wading birds including the Federal and State Endangered Specie, the Wood Stork. Each year, 470, 000 people visit the park to swim, to surf fish, and to boat. The waters provide jobs to commercial fishermen and oystermen.

If implemented, the amendments would prohibit any discharge of wastewaters, untreated or treated, into any waterbody designated ORW. There are three existing wastewater treatment facilities in the area: at Harbor Island, at Fripps Island, and at Hunting Island, but they will not be impacted by the amendments to R.61-69. At Harbor and Fripps, facilities will not be impacted because they do not discharge into any of the waterbodies under consideration for ORW designation. Both facilities use spray fields (golf courses) for final waste disposal. The Hunting Island facility will not be impacted by the amendments because its present form of wastewater treatment and method of final waste disposal will soon be discontinued. The Hunting Island facility will be converted to spray field irrigation for final wastewater disposal.

The waters proposed for ORW designation are inside the park’s boundary (Johnson Creek and its tributaries) and surrounding waters: Fripps Inlet and Harbor River.

The waters of Hunting Island State Park now are classified SFH. There is concern by the park staff that water quality standards are insufficiently protective to ensure the recreational and ecological resources. The ORW designation will benefit park visitors, anglers, fishermen, oystermen, property owners, residents of Beaufort County, and the State.

DETERMINATION OF COSTS AND BENEFITS: There are no expected costs as a result of these amendments. The amendments will protect the outstanding recreational and ecological resources of Hunting Island State Park. Regulation 61-68, *Water Classifications and Standards*, prohibits wastewater treatment plants from discharging effluent to waters designated outstanding recreational and ecological resources. The amendments do not require or impose any mandates on local governments. Shellfish resources will be protected from possible contamination from wastewater discharges. Recreational and ecological resources will benefit.

UNCERTAINTIES OF ESTIMATES: None

EFFECT ON THE ENVIRONMENT AND PUBLIC HEALTH: The waters of Hunting Island State Park support irreplaceable ecological and recreational resources. Without these amendments, these high quality waters will not be adequately protected.

DETRIMENTAL EFFECT ON THE ENVIRONMENT AND PUBLIC HEALTH IF THE REGULATION IS NOT IMPLEMENTED: There were no public health concerns that initiated the amendments of the regulation. The amendments recognize outstanding recreational and ecological resources of the waters surrounding Hunting Island State Park. State park staff were concerned the current water classifications would not protect water quality in the future.

Resubmitted April 11, 2002

Document No. 2614

DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL

CHAPTER 30

Statutory Authority: S.C. Code Section 48-39-50

R.30-1, *Definitions*

R.30-2, *Applying for a Permit*

R.30-12, *Specific Project Standards for Tidelands and Coastal Waters*

Synopsis:

The proposed amendments of R.30-1, R.30-2, and R.30-12 incorporate recommendations made by the public and the Board of Health and Environmental Control. The purpose of the amendments is to enable the staff of the Department to better manage coastal resources in the Coastal Zone of South Carolina. Other changes include adding a new definition to define the term "boat", and clarification of additional information needed at the time of permit review are addressed. Specific project standards for docks are also included.

Proposed amendments of R.30-1, R.30-2, and R.30-12 were proposed by publication of a Notice of Drafting in the State Register on July 28, 2000, and by publication of a Notice of Proposed Regulation in the State Register on February 23, 2001, identified as Document 2614. The Notice of Proposed Regulations provided notice of opportunity for interested persons to comment on the proposed regulations by attending an informational forum that was conducted on March 14, 2001, by submitting written comments during a public comment period that closed March 23, 2001, and by offering comments at a public hearing scheduled before the Board of Health and Environmental Control on April 12, 2001. Pursuant to S.C. Code Section 1-23-111, the Department's Board conducted a public hearing on April 12, 2001, and approved the proposed amendments. At the conclusion of the public hearing the Board directed Department staff to separate the proposed amendments of Document 2614 into two separate packages for submission to the legislature for review. The Legislative Council of the General Assembly requires that in order for the Department to submit two separate amendments to the legislature at this stage of the Administrative Procedures process, separate document numbers for each amendment must be assigned. A Notice of Proposed Regulation is being published in the State Register on May 25, 2001, for the purpose of assigning a second document number (2629) for proposed amendment of R.30-12.A(2)(1) pertaining to length of docks. The proposed amendment of R.30-12.A(2)(1) is being submitted for legislature review as Document 2629. The remaining proposed amendments of R.30-1, R.30-2, and R.30-12 are being submitted to the legislature as Document 2614.

Discussion of Revisions:

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* The asterisk represents sections of the proposed regulations that were modified as requested by the House of Representatives Agriculture, Natural Resources, and Environmental Affairs Committee.

<u>SECTION</u>	<u>CHANGE</u>
30-1.D(7)	New definition is added to define the term “boat” as it relates to specific uses in the critical areas.
*30-2.B(8)	Additional language incorporates the requirements of stormwater plans, dock master plans, and other pertinent information in order to provide for a comprehensive review of project proposals. This section is also amended to clarify profession requirements for submitting plats reflecting locations of the SCOCRM Baseline and setback lines.
30-12.A(1)	Language is deleted to clarify existing wording.
*30-12.A(2)(f)	Language is added to recognize the Americans with Disabilities Act recommendations for walkways and other structural configurations.
*30-12.A(2)(h)	Language is modified to address the permitting process required in order to review projects comprehensively and not on a piece meal basis. Revisions add language to address lots in subdivisions with approved Dock Master Plans to exempt them from the proposed revisions in R.30-12.A(2)(q)(i). Additionally, changes to R.30-12.A(2)(q)(i) do not apply to other existing lots of record until July of 2007.
30-12.A(2)(n)	Language is added to clarify corridor and navigational issues.
*30-12.A(2)(q)(i)	Language is modified to eliminate dock on creeks less than 20 feet wide unless special geographic circumstances apply.
30-12.A(2)(q)(iv)	Language is modified to restrict dock to 600 square feet on creeks larger than 150 foot wide.
30-12.A(2)(q)(viii)	Subitem is added to clarify boat storage associated with docks in the critical areas. Definition of Boat Storage Dock is added.
*30-12.A(2)(r) and (2) (r)(ii)	The proposed change to A(2)(r) introductory clause was withdrawn. The change to (2)(r)(ii) is to specify the allowable roof height.
30-12.A(2)(s)(iv)	This subitem is deleted because the language was unnecessary.
*30-12.A(2)(t)	Addition which states docks destroyed beyond repair may be rebuilt to their previous configuration. A five-year grace period is included to allow the rebuilding of docks back to the previous configuration.
*30-12.N through 30-12.N(11)	The proposed changes to this section was withdrawn and the regulations will return to their existing language.

Instructions: Amend R.30-1, R.30-2, and R.30-12 pursuant to each individual instruction provided with the text below.

Text:

Add new definition 30-1.D(7) in alphanumeric order: remaining existing 30-1.D(7) – (23) definitions are renumbered accordingly:

R.30-1.D(7) Boat- A vessel or watercraft of any type or size specifically designed to be self propelled, whether by engine, sail, paddle, or other means, which is used to travel from place to place by water.

Replace 30-2.B(8) to read:

R.30-2.B(8) When considered appropriate by the Department, additional information may be required. For major development activities this additional information may include but is not limited to a stormwater management plan, approved freshwater wetland delineation, and cultural resource and endangered species survey. The plat or copy of a plat submitted for those activities subject to the Beach Management Act (Sections 48-39-270 through 350) shall show the location of the baseline and setback line, applicable to the subject property. The lines shall be derived from information available from the Department. The lines shall be part of the plat and sealed by a South Carolina Registered Land Surveyor and may not be placed on the application by anyone other than a South Carolina Registered Land Surveyor or a member of the Department staff.

Replace 30-12.A(1) to read:

R.30-12.A(1) A dock or pier is a structure built over and/or floating on water and is generally used for the mooring of boats. Docks and piers are the most popular method of gaining access to deep water. Docks and piers sometimes pose navigational problems, and restrict public use of the water and, under certain circumstances, possess potential for creating environmental problems. For more detailed standards pertaining to community docks, refer to 30-12 E (5), (6) and (7) herein.

Replace 30-12.A(2)(f) to read:

R.30-12.A(2) (f) Walkways leading to the dock or pier shall not exceed four feet in width (unless the applicant can justify a need for a wider structure) and should be elevated at least three feet above mean high water. For handicapped access, the Department may utilize The Americans with Disabilities Act (ADA) recommendations for walkway width and other structural configurations. Reference 28 CFR Part 36.

Replace 30-12.A(2)(h) to read:

R.30-12.A(2) (h) Developers of the subdivisions and multiple family dwellings are encouraged to develop plans which include joint-use docks and/or community docks at the time of required dock master plans. The approved Dock Master Plan must be recorded in the appropriate County Office of Deeds prior to lot sales in the subdivision. Reference to this DMP must be given in all contracts for lot sales. Lots in subdivisions with approved Dock Master Plans as of the date of enactment of this regulation are exempt from R.30-12.A(2)(q)(i) as amended by this regulation. R.30-12.A(2)(q)(i) as amended by this regulation does not apply to other lots of record that exist as of the date of enactment of this regulation until the later of July 1, 2007 or the expiration of any permit issued prior to that date.

Replace 30-12.A(2)(n) to read:

R.30-12.A(2)(n) Docks must generally extend to the first navigable creek, within extensions of upland property lines or corridor lines, that has a defined channel as evidenced by a significant change of grade with the surrounding marsh; or having an established history of navigational access or use. A creek with an established history of navigational use may also be considered as navigable. Such creeks cannot be bridged in order to obtain access to deeper water. However, pier heads must normally be located rest over open water and floating docks,

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which rest upon the bottom at normal low tide, will not normally be permitted. In exceptional cases, the Department may allow an open water channel to be bridged if current access is limited by other man made or natural restrictions or if site-specific conditions warrant such a crossing.

Replace 30-12A.(2)(q)(i) to read:

R.30-12.A(2)(q)(i) Docks will not be permitted on creeks less than 20 feet wide as measured from marsh vegetation on either side unless one of the following two special geographic circumstances exists: a lot has greater than 500 feet of water frontage or no potential access via dockage from the opposite side of the creek. However, in no circumstances will docks be permitted on creeks less than 10 feet wide as measured from marsh vegetation on either side, nor will boat lifts be permitted on any dock allowed in creeks less than 20 feet wide.

Replace 30-12A.(q)(iv) to read:

R.30-12.A(2)(q)(iv) Creeks larger than 150 feet, as measured from marsh vegetation on both sides, shall be restricted to docks up to 600 square feet unless special geographic circumstances and land uses warrant a larger structure.

Add 30-12.A(2)(q)(viii) to read:

R.30-12.A(2)(q)(viii) Boat storage docks will be considered on a case-by-case basis and may be permitted in lieu of elevated boatlifts. The square footage of such structures will be included in total allowable dock square footage. A boat storage dock is a floating structure used for boat storage in lieu of a boatlift.

Replace 30-12.A(2)(r) Introductory paragraph and 30-12.A(2)(r)(ii); sub items 30-12.A(2)(r)(i) and (iii) remain the same:

R.30-12.A(2)(r). Roofs on private docks will be permitted on a case-by-case basis, with consideration given to the individual merits of each application. Precedent in the vicinity for similar structures will be considered as well as the potential for impacting the view of others. Roofs which have the potential to seriously impact views will not be allowed, while those that have minimal impact may be allowed. The following standards will be used in evaluating applications for roofs.

(ii) Flat roofs are prohibited. Where a roof is otherwise permissible, maximum allowable roof height shall be 12' as measured from the floor decking of the dock to the highest point of the roof including any ornamental structures.

Delete 30-12.A(2)(s)(iv)

Add 30-12.A(2)(t) to read:

R.30-12.A(2)(t) If a dock is destroyed, the dock may be rebuilt to its previous configuration so long as reconstruction is completed within five years of the date of the event unless there are extenuating circumstances justifying more time.

Replace R.30-12.N through 30-12.N(11) to read as it currently exists:

R.30-12.N. Access to Small Islands: Inappropriate development can affect the values set forth in Section 48-39-20(E) and the policies the Department is required to implement pursuant to Section 48-39-30. To prevent inappropriate access to small islands, permanent filling for access is prohibited, except for the expansion of existing usable causeways. Bridging will be considered based upon:

- (1) Distance of bridging required;

- (2) Type of bridging and dimensions of bridging requested;
- (3) Configuration of shoreline;
- (4) Size of the island including highland and critical area;
- (5) The existence of feasible alternative access;
- (6) Public need;
- (7) Impacts on protected resources;
- (8) The ability of the owner to tie into existing sewer utilities or meet SCDHEC standards for septic tanks;
- (9) Impact upon values set forth in Section 48-39-20(E);
- (10) The island is subject to stormwater and management policies set forth in the Program Document;
- (11) The owner must provide a dock master plan, and a development plan. Mitigation will be required for any fill placed in the critical area for widening causeways.

Fiscal Impact Statement:

SCDHEC/OCRM estimates there will be no significant economic impacts upon or incurred by the state or its political entities as a result of the promulgation, approval, and administration of the proposed Regulations. Existing staff and resources have been utilized in preparation and will further be utilized in additional regulatory administration resulting from the amendments.

Document No. 2640

DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL
CHAPTER 61

Statutory Authority: 44-56-30, 48-1-10 et seq., 1-23-10 et seq.

R.61-79, Hazardous Waste Management

Synopsis:

The Department of Health and Environmental Control will amend R.61-79, Hazardous Waste Management Regulations, to add listings for certain organotin manufacturing residues. The Department will add South Carolina-designated hazardous wastes from specific sources to current regulations by including waste residues from the manufacture of organotin compounds, which contain tri- (organo) substituted organotin compounds, to include tributyltin and its analogs. These South Carolina-designated hazardous wastes will be included in the 261.32 hazardous waste list, and the new South Carolina-designated hazardous waste constituents will also be incorporated into 261 Appendix VII, 261 Appendix VIII, and 264 Appendix IX. See Discussion below and Statement of Need and Reasonableness herein.

The Notice of Drafting was published December 22, 2000. One comment was received, which stated that one of the companies releasing these proposed South Carolina-designated hazardous wastes has modified its process to recycle future wastes. The Notice of Proposed Regulations published on July 27, 2001, received one favorable

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comment and no critical comments. Only DHEC staff attended the Staff Informational Forum on August 27, 2001. See also Discussion of Proposed Revisions and Statement of Reasonableness.

Discussion of Revisions:

Section Citation	Explanation of Changes: to enable the State to regulate certain organotin wastes
261.32 Table	Amend Table heading to include "SC" in addition to EPA and to change "#" to "No." Add section at end of table for Organotin wastes, define, indicate toxicity (T)
261.32 Appendix VII	Amend Table heading to include SC in addition to EPA Add K900
261 Appendix VIII	Add nine organotin listings to Hazardous Constituents, including common name, chemical abstracts name, chemical abstracts number.
264 Appendix IX	Add Tributyltin as Common Name, 688-73-3 as CAS RN, Tributylstannane as Chemical abstracts service index name, NOAA 1993 10 as Suggested methods, and 0.5 as PQL (µg/L) . Add footnote 10 for nonessential matrices.

Instructions: Amend R. 61-79 with each amendment provided with the text as follows:

Text of Amendments:

The following sections are added to R.61-79.26.32 Table

The following solid wastes are listed hazardous wastes from specific sources unless they are excluded under 260.20 and 260.22 and listed in 261 Appendix IX:

Industry, SC & EPA hazardous waste No.	261.32 Hazardous Wastes from specific sources	Hazard code
Organotins:		
K900	Waste residues from the manufacture of organotin compounds which contain tri-(organo) substituted tin compounds, to include tributyltin and its analogs.	(T)

261 Appendix VII - Basis for Listing Hazardous Waste

EPA/SC Hazardous Waste.	Hazardous constituents for which listed
K900	Tributyltin, Tributyltin Oxide, Tributyltin Chloride, Tributyltin Hydroxide, Tributyltin Bromide, Tributyltin Acetate, Tributyltin Fluoride, Triethyltin, Triethyltin Chloride

261 Appendix VIII - Hazardous Constituents

Common name	Chemical abstracts name	Chemical Abstracts No.
Tributyltin	Tributylstannane	688-73-3
Tributyltin Oxide	Bis(tri-n-butyltin) Oxide	56-35-9
Tributyltin Chloride	Tributylchlorostannane	1461-22-9
Tributyltin Hydroxide	Tributylhydroxystannane	1067-97-6
Tributyltin Bromide	Tributylbromostannane	1461-23-0
Tributyltin Acetate	(acetyloxy)tributylstannane	56-36-0
Tributyltin Fluoride	Tributylfluorostannane	1983-23-0
Triethyltin	Triethylstannane	997-50-2
Triethyltin Chloride	Triethyltin Chloride	994-31-0

264 Appendix IX - Groundwater Monitoring List

Common Name ²	CAS RN ³	Chemical abstracts service index name ⁴	Suggested methods ⁵	PQL ($\mu\text{g/L}$) ⁶
Tributyltin	688-73-3	Tributylstannane	NOAA-1993 ¹⁰	0.5

¹⁰For nonessential matrices, consult with Department regarding methods before collection.

Preliminary Fiscal Impact Statement:

There will be no increased costs to the State or its political subdivisions.

Statement of Need and Reasonableness:

This Statement of Need and Reasonableness complies with S. C. Code Ann. Section 1-23-115(C)(1)-(3) and (9)-(11). This amendment will require legislative review.

I. DESCRIPTION OF REGULATION:

Proposed amendment of Regulation 61-79, Hazardous Waste Management Regulations

Purpose: The purpose of this amendment is to bring certain organotin compounds under State hazardous waste management regulation. Past organotin waste management practices in South Carolina have resulted in extensive environmental and ecosystem damage from these organotin compounds. Application of hazardous waste program requirements to this waste stream is appropriate for protection of public health and the environment. The Department is statutorily required to promulgate regulations, procedures, or standards as may be necessary to protect the health and safety of the public, the health of living organisms, and the environment. The Department has determined that hazardous waste oversight is required because these wastes have demonstrated the ability to adversely impact public health, other life forms, and the environment when not managed correctly

Authority: The proposed amendment will continue to be in accord with the federal authorization requirements of the U.S. Environmental Protection Agency Resource Conservation and Recovery Act of 1976 as amended, Title II, Subtitle C Section 3009; South Carolina Hazardous Waste Management Act 44-56-30 et seq.; the Pollution Control Act 48-1-10 et seq.; and the Administrative Procedures Act 1-23-10 et seq.

Plan for implementation: The proposed amendments, after public comment and Department response, would be incorporated within R.61-79 upon approval of the Board, General Assembly, and publication in the State Register. Because the primary communication and enforcement tools of the Department are its regulations, the regulatory approach to resolving recurring environmental and public health concerns is the most feasible and cost effective

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approach available. The proposed modifications would be implemented in the same manner as other regulations are implemented.

II. DETERMINATION OF NEED AND REASONABLENESS OF THE PROPOSED REGULATION BASED ON ALL FACTORS HEREIN AND EXPECTED BENEFITS:

Past organotin waste management practices in South Carolina have resulted in extensive environmental and ecosystem damage from these organotin compounds. Application of hazardous waste program requirements to this waste stream is appropriate for protection of public health and the environment. The Department is statutorily required to promulgate regulations, procedures, or standards as may be necessary to protect the health and safety of the public, the health of living organisms, and the environment. The Department has determined that hazardous waste oversight is required because these wastes have demonstrated the ability to adversely impact public health, other life forms, and the environment when not managed correctly. The Department has used EPA and South Carolina Hazardous Waste Regulations (R.61-79.261.11) as criteria for making this determination.

The Department, after considering the following factors, concludes that these wastes have been demonstrated capable of posing a substantial present or potential hazard to human health, other life forms, or the environment when improperly treated, stored, transported or disposed of, or otherwise managed:

(i) The nature of the toxicity presented by the constituent: Releases of organotin compounds to South Carolina surface waters have resulted in fish kills and contaminated waterways which require remediation. Organotin compounds are toxic to the ecosystem, specifically aquatic life, including most freshwater sport fishing species found in South Carolina, at levels less than 10 parts per billion, ug/L. Tributyltins (TBT), also referred to as trisubstituted organotins, readily sorb to sediments and suspended solids and can persist there. TBT concentrations in water and suspended matter are predicted to decrease rapidly and TBT concentrations in sediment and benthic organisms decrease at a much slower rate. Scientific literature demonstrates that tributyltin (TBT) has chronic effects on certain aquatic organisms, including Algae, Zooplankton, Amphipods, Molluscs, Bivalves, Gastropods, and Crustaceae at extremely low concentrations ranging from 1-1000 parts per trillion (ng/L). Already, concern over the long-term environmental effects of TBT has prompted restrictions on the use of TBT antifoulant paints in Europe and the United States. In 1954 in Stalinon, France, triethyltin was determined to have caused the death of 110 persons, as a toxic contaminant in medication. In 1999 in Jiangxi Province, China, more than 1000 persons were poisoned by organotin compounds, hospitalizing hundreds, with 3 persons dying.

(ii) The concentration of the constituent in the waste: The high biological activity of some compounds toward aquatic organisms lead to deleterious impacts in aquatic ecosystems. Typically, mono-, di-, and tributyltin are found in raw wastewater in the range of 200 to 500 ng/l, and 500 to 1000µg/kg (dry matter) in sludge from wastewater treatment plants that receive waters from organotin manufacturers.

(iii) The potential of the constituent or any toxic degradation product of the constituent to migrate from the waste into the environment under the types of improper management considered in R.61-79.261.11(a)(3)(vii). The fate of organotins in lakes is the result of a combination of transport phenomena, including dilution into the surroundings and scavenging to sediments, microbial and algal biodegradation, and transfer into biota (aquatic food chain), where much higher TBT concentrations occur than in the water column. Releases of organotins to surface waters can result in persistence of these constituents in sediments, which can be a continuing threat to aquatic life if released through storm events.

(iv) The persistence of the constituent or any toxic degradation product of the constituent. Dated sediment cores indicate that TBT is very persistent in anoxic lake sediments and are stored there for long periods of time. Hence, sedimentation and persistence in anoxic lake sediments plays a pivotal role in the fate of these compounds in lakes. Anaerobic processes may not be very significant for the environmental degradation of TBT. In general these organotins can be very persistent in sediments. They either adsorb onto particulate matter, and are thus more likely to be removed from the water into the sediments, or they stay in the dissolved phase, from which they are more likely to be accumulated by aquatic organisms. In the dissolved state, tributyltin can also be adsorbed by bacteria. Tributyltin is not generally persistent in water; however, it is stored in sediments for a period of years to more than a decade. Unless remediated, the contaminated sediments in these water bodies could release organotins for a long period of time.

(v) The potential for the constituent or any toxic degradation product of the constituent to degrade into non-harmful constituents and the rate of degradation. Organotins degrade stepwise with exposure to ultra violet light and oxygen to less- but still harmful organic compounds.

(vi) The degree to which the constituent or any degradation product of the constituent bioaccumulates in ecosystems. TBT is rapidly accumulated in aquatic organisms. Bioconcentration of xenobiotic compounds is important with respect to biomagnification within the food web and contamination of human diet. Both storage and elimination of toxics are affected by the organism's biotransformation capacity. These biologically catalyzed chemical conversions are the basis for mechanisms that govern the persistence, bioconcentration, and toxicity of xenobiotics. Also, with respect to the behavior of a chemical in an entire ecosystem, biotransformations by aquatic organisms along with physicochemical transport and transformation processes dictate the overall fate in the environment. Aquatic organisms can concentrate organotin products from the water, suspended particles, organic matter, sediment, and detritus into the lake or river.

(vii) The plausible types of improper management to which the waste could be subjected. Improper management has been demonstrated through leaks, spills, stormwater transport of leaks & spills; also during transportation, packaging, and handling. Conventional wastewater treatment plants may be damaged by this waste stream and subsequently release the hazardous constituents into surface waters.

(viii) The quantities of the waste generated at individual generation sites or on a regional or national basis. Kentucky, Alabama, New Jersey, and South Carolina are known to generate organotins. Compiled data summarizing quantities generated is not available. Some of the wastes in South Carolina have been sent to Subtitle D landfills and the volumes have not been documented.

(ix) The nature and severity of the human health and environmental damage that has occurred as a result of the improper management of wastes containing the constituent. Most of the environmental damage which has occurred in South Carolina took place on private land; therefore the State damage assessment team did not perform the assessment which would have taken place on State waters. The State, however, found that almost all life had died in the lake most affected. Storm events that cause a significant mixing of sediments in Red Bank Creek, Crystal Lake, Durham Pond, or Congaree Creek could result in surface water concentrations high enough to once again cause a fish kill.

(x) Action taken by other governmental agencies or regulatory programs based on the health or environmental hazard posed by the waste or waste constituent. The United States Environmental Protection Agency (USEPA) has established draft ambient water quality criteria for tributyltin. Other states have listed organotins as hazardous wastes after demonstration of high contamination in harbors and coastal areas caused by TBT anti-fouling treatments on boats. There has been a world effort to remove this product from products, particularly from paints; other countries (including France, Norway, Finland, Germany and U.K.) have banned and/or controlled the use of TBT-containing antifouling paints. The use of tributyltin on boats, except for military ships, will be banned in the United States after 2003.

(xi) Such other factors as may be appropriate. Although the industry, particularly as it organizes itself as ORTEP Association (Organotin Environmental Programme), has been successful in publishing reassuring technical reviews which discount harmful effects of organotin on human health and the environment, independent peer-reviewed publications document that mismanagement of organotins clearly causes a variety of negative impacts to human health and the environment.

In addition, the Department may list classes or types of solid waste as hazardous waste if it has reason to believe that individual wastes, within the class or type of waste, typically or frequently are hazardous under the definition of hazardous waste found in 261.3 or Section 1004(5) of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976, as amended, 42 U.S.C. section 6901.

III. DETERMINATION OF COSTS AND BENEFITS:

The Benefit/Cost determination is uncertain because financial information for private facilities is not available to the State. However, the cost of management of wastewater treatment facilities will be significantly reduced if the State regulates organotins. Past organotin waste management practices in South Carolina have resulted in releases

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of untreated organotin compounds which have resulted in several fish kill events on private property as well as permanent damage to two water treatment facilities; one of the facilities cost \$3 million to repair; the other facility closed permanently; in addition, the temporary doubling of the cost of replacement water to about 15,000 residences.

The total cost of evaluation and possible remediation of approximately sixteen miles of organotin contaminated surface waters has not yet been determined. The cost is likely to be significant given that the cost of excavating hazardous wastes averages \$10/ton; shipping costs about \$50/ton; burial costs about \$150/ton; and incineration costs average about \$1,000/ton. If oxidation is required for destruction, that will be more expensive. EPA reports cleanup costs predictions for releases of concern will not be available until the volumes of waste and the potentially unusual treatment methods are identified.

IV. UNCERTAINTIES OF ESTIMATES:

Although the Department has been informally advised there are companies which might be inadvertently affected by this listing, the Department has not been able to obtain specific information. Staff anticipates that by the Department addressing wastes from specific sources (261.32), such unintended consequences will be avoided. The purpose of the Notice of Proposed Regulation is to solicit specific information and advice upon which to base a proposed Final Regulation, and clear up this uncertainty.

V. EFFECT ON ENVIRONMENT AND PUBLIC HEALTH.

This proposed regulation provides prevention measures to reduce the chance of future releases and should avoid dangerous exposures of certain organotin compounds upon public health, other life forms, and the environment.

VI. DETRIMENTAL EFFECT ON THE ENVIRONMENT AND PUBLIC HEALTH IF THE REGULATION IS NOT IMPLEMENTED.

The releases of untreated organotin compounds have resulted in several fish kill events on private property as well as permanent damage to two water treatment facilities; one of the facilities cost \$3 million to repair; the other facility closed permanently. Most of the other environmental damage which has occurred in South Carolina took place on private land; therefore the State damage assessment team did not perform the assessment which would have taken place on State waters. The State, however, found that almost all life had died in the lake most affected.

VII. PLAN FOR IMPLEMENTATION: Upon publication in the State Register as a final regulation, amended regulations will be provided to the regulated community at cost through the Department's Freedom of Information Office.

Document No. 2593

DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL**CHAPTER 61**Statutory Authority: S.C. Code Section 48-1-10 *et seq.*

R.61-62, 96, *Nitrogen Oxides (NO_x) Budget Trading Program*, and R.61-62.99, *Nitrogen Oxides (NO_x) Budget Program Requirements for Stationary Sources Not In the Trading Program*.

Synopsis:

On October 27, 1998, the United States Environmental Protection Agency (EPA) published a final rule titled, "Finding of Significant Contribution and Rulemaking for Certain States in the Ozone Transport Assessment Group Region for Purposes of Reducing Regional Transport of Ozone" [63 FR 57355]. This rule, also known as the NO_x SIP Call, requires South Carolina and certain other states to limit the summertime emissions of oxides of nitrogen (NO_x) which are one of the precursors of ozone pollution. EPA has stated in the rule that sources in these states emit NO_x in amounts that significantly contribute to nonattainment of the 1-hour National Ambient Air Quality Standard (NAAQS) for ozone in one or more down-wind states. The NO_x SIP Call requires reductions of summertime emissions of NO_x in South Carolina by about 19 percent and requires the Department to submit a revision to the South Carolina State Implementation Plan (SIP) that identifies measures necessary to achieve these reductions. The purpose of this SIP revision is to comply with the federal requirement for NO_x reductions in the eastern half of the United States. If the Department fails to submit an approvable revision to the SIP, the EPA will establish a Federal Implementation Plan to achieve these reductions.

The Department has amended R.61-62, *Air Pollution Control Regulations and Standards*, and the South Carolina State Implementation Plan (SIP) by adding two new regulations for incorporation into R.61-62 in order to comply with the Federal requirements. The new regulations are R.61-62.96, *Nitrogen Oxides (NO_x) Budget Trading Program*, and R.61-62.99, *Nitrogen Oxides (NO_x) Budget Program Requirements for Stationary Sources Not In the Trading Program*.

Instructions: Amend R.61-62, *Air Pollution Control Regulations and Standards*, by adding two regulations: R.61-62.96, *Nitrogen Oxides (NO_x) Budget Trading Program*, and R.61-62.99, *Nitrogen Oxides (NO_x) Budget Program Requirements for Stationary Sources Not In the Trading Program*

TEXT OF R.61-62.96:**R.61-62.96. NITROGEN OXIDES (NO_x) BUDGET TRADING PROGRAM****Subpart A- Nitrogen Oxides NO_x Budget Trading Program General Provisions****Section 96.1 Purpose.**

This regulation establishes general provisions and the applicability, permitting, allowance, excess emissions, monitoring, and opt-in provisions for the NO_x Budget Trading Program as a means of mitigating the interstate transport of ozone and nitrogen oxides, an ozone precursor. The owner or operator of a unit, or any other person, shall comply with requirements of this regulation as a matter of State and Federal law. The State of South Carolina authorizes the EPA to assist the State in implementing the NO_x Budget Trading Program by carrying out the functions set forth for the EPA in such requirements.

Section 96.2 Definitions.

The terms used in this regulation shall have the meanings set forth in this section as follows:

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(a) "Account certificate of representation" means the completed and signed submission required by subpart B of this regulation for certifying the designation of a NO_x authorized account representative for a NO_x Budget source or a group of identified NO_x Budget sources who is authorized to represent the owners and operators of such source or sources and of the NO_x Budget units at such source or sources with regard to matters under the NO_x Budget Trading Program.

(b) "Account number" means the identification number given by the EPA to each NO_x Allowance Tracking System account.

(c) "Acid Rain emissions limitation" means, as defined in South Carolina Regulation 61-62.72.2, Air Pollution Control Regulations and Standards, a limitation on emissions of sulfur dioxide or nitrogen oxides under the Acid Rain Program under Title IV of the CAA.

(d) "Allocate" or "allocation" means the determination by the Department or the EPA of the number of NO_x allowances to be credited to a NO_x Budget unit or an allocation set-aside.

(e) "Automated data acquisition and handling system" or "DAHS" means that component of the CEMS, or other emissions monitoring system approved for use under subpart H of this regulation, designed to interpret and convert individual output signals from pollutant concentration monitors, flow monitors, diluent gas monitors, and other component parts of the monitoring system to produce a continuous record of the measured parameters in the measurement units required by subpart H of this regulation.

(f) "Boiler" means an enclosed fossil or other fuel-fired combustion device used to produce heat and to transfer heat to recirculating water, steam, or other medium.

(g) "CAA" means the Clean Air Act, 42 U.S.C. 7401, *et seq.*, as amended by Pub. L. No. 101-549 (November 15, 1990).

(h) "Combined cycle system" means a system comprised of one or more combustion turbines, heat recovery steam generators, and steam turbines configured to improve overall efficiency of electricity generation or steam production.

(i) "Combustion turbine" means an enclosed fossil or other fuel-fired device that is comprised of a compressor, a combustor, and a turbine, and in which the flue gas resulting from the combustion of fuel in the combustor passes through the turbine, rotating the turbine.

(j) "Commence commercial operation" means, with regard to a unit that serves a generator, to have begun to produce steam, gas, or other heated medium used to generate electricity for sale or use, including test generation. Except as provided in Section 96.5, for a unit that is a NO_x Budget unit under Section 96.4 on the date the unit commences commercial operation, such date shall remain the unit's date of commencement of commercial operation even if the unit is subsequently modified, reconstructed, or repowered. Except as provided in Section 96.5 or subpart I of this regulation, for a unit that is not a NO_x Budget unit under Section 96.4 on the date the unit commences commercial operation, the date the unit becomes a NO_x Budget unit under Section 96.4 shall be the unit's date of commencement of commercial operation.

(k) "Commence operation" means to have begun any mechanical, chemical, or electronic process, including, with regard to a unit, start-up of a unit's combustion chamber. Except as provided in Section 96.5, for a unit that is a NO_x Budget unit under Section 96.4 on the date of commencement of operation, such date shall remain the unit's date of commencement of operation even if the unit is subsequently modified, reconstructed, or repowered. Except as provided in Section 96.5 or subpart I of this regulation, for a unit that is not a NO_x Budget unit under Section 96.4 on the date of commencement of operation, the date the unit becomes a NO_x Budget unit under Section 96.4 shall be the unit's date of commencement of operation.

- (l) “Common stack” means a single flue through which emissions from two or more units are exhausted.
- (m) “Compliance certification” means a submission to the Department that is required under subpart D of this regulation to report a NO_x Budget source’s or a NO_x Budget unit’s compliance or noncompliance with this regulation and that is signed by the NO_x authorized account representative in accordance with subpart B of this regulation.
- (n) “Compliance account” means a NO_x Allowance Tracking System account, established by the EPA for a NO_x Budget unit under subpart F of this regulation, in which the NO_x allowance allocations for the unit are initially recorded and in which are held NO_x allowances available for use by the unit for a control period for the purpose of meeting the unit’s NO_x Budget emissions limitation.
- (o) “Continuous emission monitoring system” or “CEMS” means the equipment required under subpart H of this regulation to sample, analyze, measure, and provide, by readings taken at least once every 15 minutes of the measured parameters, a permanent record of nitrogen oxides emissions, expressed in tons per hour for nitrogen oxides. The following systems are component parts included, consistent with 40 CFR part 75, in a continuous emission monitoring system:
- (1) Flow monitor;
 - (2) Nitrogen oxides pollutant concentration monitors;
 - (3) Diluent gas monitor (oxygen or carbon dioxide) when such monitoring is required by subpart H of this regulation;
 - (4) A continuous moisture monitor when such monitoring is required by subpart H of this regulation; and
 - (5) An automated data acquisition and handling system.
- (p) “Control period” means for the year 2004, the period beginning on May 31 and ending on September 30 of the same year, inclusive. Thereafter, control period shall mean the period beginning May 1 of a year and ending on September 30 of the same year, inclusive.
- (q) “Department” means the South Carolina Department of Health and Environmental Control.
- (r) “Emissions” means air pollutants exhausted from a unit or source into the atmosphere, as measured, recorded, and reported to the EPA by the NO_x authorized account representative and as determined by the EPA in accordance with subpart H of this regulation.
- (s) “Energy Information Administration” means the Energy Information Administration of the United States Department of Energy.
- (t) “EPA” means the United States Environmental Protection Agency.
- (u) “Excepted monitoring system” means a monitoring system that follows the procedures and requirements of 40 CFR part 75 section 75.19 or of appendix D or E of 40 CFR part 75 for approved exceptions to the use of continuous monitoring systems.
- (v) “Excess emissions” means any tonnage of nitrogen oxides emitted by a NO_x Budget unit during a control period that exceeds the NO_x Budget emissions limitation for the unit.
- (w) “Fossil fuel” means natural gas, petroleum, coal, or any form of solid, liquid, or gaseous fuel derived from such material.

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(x) "Fossil fuel-fired" means, with regard to a unit:

(1) For units that commenced operation before January 1, 1996, the combination of fossil fuel, alone or in combination with any other fuel, where fossil fuel actually combusted comprises more than 50 percent of the annual heat input on a Btu basis during 1995, or if a unit had not heat input in 1995, during the last year of operation of the unit prior to 1995;

(2) For units that commenced operation on or after January 1, 1996, the combination of fossil fuel, alone or in combination with any other fuel, where fossil fuel actually combusted comprises more than 50 percent of the annual heat input on a Btu basis during any year.

(3) Notwithstanding the definition set forth in 96.2(x)(1) above, a unit shall be deemed fossil fuel-fired if on any year after January 1, 2001, the fossil fuel actually combusted comprises more than 50 percent of the annual heat input on a Btu basis.

(y) "General account" means a NO_x Allowance Tracking System account, established under subpart F of this regulation, that is not a compliance account or an overdraft account.

(z) "Generator" means a device that produces electricity.

(aa) "Heat input" means the product (in mmBtu/time) of the gross calorific value of the fuel (in Btu/lb) and the fuel feed rate into a combustion device (in mass of fuel/time), as measured, recorded, and reported to the EPA by the NO_x authorized account representative and as determined by the EPA in accordance with subpart H of this regulation, and does not include the heat derived from preheated combustion air, recirculated flue gases, or exhaust from other sources.

(bb) "Life-of-the-unit, firm power contractual arrangement" means a unit participation power sales agreement under which a utility or industrial customer reserves, or is entitled to receive, a specified amount or percentage of nameplate capacity and associated energy from any specified unit and pays its proportional amount of such unit's total costs, pursuant to a contract:

(1) For the life of the unit;

(2) For a cumulative term of no less than 30 years, including contracts that permit an election for early termination; or

(3) For a period equal to or greater than 25 years or 70 percent of the economic useful life of the unit determined as of the time the unit is built, with option rights to purchase or release some portion of the nameplate capacity and associated energy generated by the unit at the end of the period.

(cc) "Low mass emissions unit" means an affected unit that is a gas-fired or oil-fired unit, burns only natural gas or fuel oil and qualifies under 40 CFR part 75 section 75.19.

(dd) "Maximum design heat input" means the ability of a unit to combust a stated maximum amount of fuel per hour on a steady state basis, as determined by the physical design and physical characteristics of the unit.

(ee) "Maximum potential hourly heat input" means an hourly heat input used for reporting purposes when a unit lacks certified monitors to report heat input. If the unit intends to use appendix D of 40 CFR part 75 to report heat input, this value should be calculated, in accordance with 40 CFR part 75, using the maximum fuel flow rate and the maximum gross calorific value. If the unit intends to use a flow monitor and a diluent gas monitor, this value should be reported, in accordance with 40 CFR part 75, using the maximum potential flowrate and either the maximum carbon dioxide concentration (in percent CO₂) or the minimum oxygen concentration (in percent O₂).

(ff) “Maximum potential NO_x emission rate” means the emission rate of nitrogen oxides (in lb/mmBtu) calculated in accordance with section 3 of appendix F of 40 CFR part 75, using the maximum potential nitrogen oxides concentration as defined in section 2 of appendix A of 40 CFR part 75, and either the maximum oxygen concentration (in percent O₂) or the minimum carbon dioxide concentration (in percent CO₂), under all operating conditions of the unit except for unit start up, shutdown, and upsets.

(gg) “Maximum rated hourly heat input” means a unit-specific maximum hourly heat input (mmBtu) which is the higher of the manufacturer’s maximum rated hourly heat input or the highest observed hourly heat input.

(hh) “Monitoring system” means any monitoring system that meets the requirements of subpart H of this regulation, including a continuous emissions monitoring system, an excepted monitoring system, or an alternative monitoring system.

(ii) “Most stringent State or Federal NO_x emissions limitation” means, with regard to a NO_x Budget opt-in source, the lowest NO_x emissions limitation (in terms of lb/mmBtu) that is applicable to the unit under State or Federal law, regardless of the averaging period to which the emissions limitation applies.

(jj) “Nameplate capacity” means the maximum electrical generating output (in MWe) that a generator can sustain over a specified period of time when not restricted by seasonal or other deratings as measured in accordance with the United States Department of Energy standards.

(kk) “Non-Title V permit” means a federally enforceable permit administered by the Department pursuant to the CAA and regulatory authority under the CAA, other than Title V of the CAA and South Carolina Regulation 61-62.70, *Title V Operating Permit Program*.

(ll) “NO_x allowance” means an authorization by the Department under the NO_x Budget Trading Program to emit up to one ton of nitrogen oxides during the control period of the specified year or of any year thereafter.

(mm) “NO_x allowance deduction” or “deduct NO_x allowances” means the permanent withdrawal of NO_x allowances by the EPA from a NO_x Allowance Tracking System compliance account or overdraft account to account for the number of tons of NO_x emissions from a NO_x Budget unit for a control period, determined in accordance with subpart H of this regulation, or for any other allowance surrender obligation under this regulation.

(nn) “NO_x allowances held” or “hold NO_x allowances” means the NO_x allowances recorded by the EPA, or submitted to the EPA for recordation, in accordance with subparts F and G of this regulation, in a NO_x Allowance Tracking System account.

(oo) “NO_x Allowance Tracking System” means the system by which the EPA records allocations, deductions, and transfers of NO_x allowances under the NO_x Budget Trading Program.

(pp) “NO_x Allowance Tracking System account” means an account in the NO_x Allowance Tracking System established by the EPA for purposes of recording the allocation, holding, transferring, or deducting of NO_x allowances.

(qq) “NO_x allowance transfer deadline” means midnight of November 30 or, if November 30 is not a business day, midnight of the first business day thereafter and is the deadline by which NO_x allowances may be submitted for recordation in a NO_x Budget unit’s compliance account, or the overdraft account of the source where the unit is located, in order to meet the unit’s NO_x Budget emissions limitation for the control period immediately preceding such deadline.

(rr) “NO_x authorized account representative” means, for a NO_x Budget source or NO_x Budget unit at the source, the natural person who is authorized by the owners and operators of the source and all NO_x Budget units at the

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source, in accordance with subpart B of this regulation, to represent and legally bind each owner and operator in matters pertaining to the NO_x Budget Trading Program or, for a general account, the natural person who is authorized, in accordance with subpart F of this regulation, to transfer or otherwise dispose of NO_x allowances held in the general account.

(ss) “NO_x Budget emissions limitation” means, for a NO_x Budget unit, the tonnage equivalent of the NO_x allowances available for compliance deduction for the unit and for a control period under Section 96.54(a) and (b), adjusted by any deductions of such NO_x allowances to account for actual utilization under Section 96.42(e) for the control period or to account for excess emissions for a prior control period under Section 96.54(d) or to account for withdrawal from the NO_x Budget Program, or for a change in regulatory status, for a NO_x Budget opt-in source under Section 96.86 or Section 96.87.

(tt) “NO_x Budget opt-in permit” means a NO_x Budget permit covering a NO_x Budget opt-in source.

(uu) “NO_x Budget opt-in source” means a unit that has been elected to become a NO_x Budget unit under the NO_x Budget Trading Program and whose NO_x Budget opt-in permit has been issued and is in effect under subpart I of this regulation.

(vv) “NO_x Budget permit” means the legally binding and federally enforceable written document, or portion of such document, issued by the Department under this regulation, including any permit revisions, specifying the NO_x Budget Trading Program requirements applicable to a NO_x Budget source, to each NO_x Budget unit at the NO_x Budget source, and to the owners and operators and the NO_x authorized account representative of the NO_x Budget source and each NO_x Budget unit.

(ww) “NO_x Budget source” means a source that includes one or more NO_x Budget units.

(xx) “NO_x Budget Trading Program” means a multi-state nitrogen oxides air pollution control and emission reduction program established in accordance with this regulation and pursuant to 40 CFR part 51 section 51.121, as a means of mitigating the interstate transport of ozone and nitrogen oxides, an ozone precursor.

(yy) “NO_x Budget unit” means a unit that is subject to the NO_x Budget Trading Program emissions limitation under Section 96.4 or Section 96.80.

(zz) “Operating” means, with regard to a unit under Sections 96.22(d)(2) and 96.80, having documented heat input for more than 876 hours in the 6 months immediately preceding the submission of an application for an initial NO_x Budget permit under Section 96.83(a).

(aaa) “Operator” means any person who operates, controls, or supervises a NO_x Budget unit, a NO_x Budget source, or unit for which an application for a NO_x Budget opt-in permit under Section 96.83 is submitted and not denied or withdrawn and shall include, but not be limited to, any holding company, utility system, or plant manager of such a unit or source.

(bbb) “Opt-in” means to be elected to become a NO_x Budget unit under the NO_x Budget Trading Program through a final, effective NO_x Budget opt-in permit under subpart I of this regulation.

(ccc) “Overdraft account” means the NO_x Allowance Tracking System account, established by the EPA under subpart F of this regulation, for each NO_x Budget source where there are two or more NO_x Budget units.

(ddd) “Owner” means any of the following persons:

(1) Any holder of any portion of the legal or equitable Title in a NO_x Budget unit or in a unit for which an application for a NO_x Budget opt-in permit under Section 96.83 is submitted and not denied or withdrawn; or

(2) Any holder of a leasehold interest in a NO_x Budget unit or in a unit for which an application for a NO_x Budget opt-in permit under Section 96.83 is submitted and not denied or withdrawn; or

(3) Any purchaser of power from a NO_x Budget unit or from a unit for which an application for a NO_x Budget opt-in permit under Section 96.83 is submitted and not denied or withdrawn under a life-of-the-unit, firm power contractual arrangement. However, unless expressly provided for in a leasehold agreement, owner shall not include a passive lessor, or a person who has an equitable interest through such lessor, whose rental payments are not based, either directly or indirectly, upon the revenues or income from the NO_x Budget unit or the unit for which an application for a NO_x Budget opt-in permit under Section 96.83 is submitted and not denied or withdrawn; or

(4) With respect to any general account, any person who has an ownership interest with respect to the NO_x allowances held in the general account and who is subject to the binding agreement for the NO_x authorized account representative to represent that person's ownership interest with respect to NO_x allowances.

(eee) "Ozone season" means the period of time beginning May 1 of a year and ending on September 30 of the same year, inclusive.

(fff) "Permitting authority" means the South Carolina Department of Health and Environmental Control which is authorized by the EPA to issue or revise permits to meet the requirements of the NO_x Budget Trading Program in accordance with subpart C of this regulation.

(ggg) "Receive or receipt of" means, when referring to the Department or the EPA, to come into possession of a document, information, or correspondence (whether sent in writing or by authorized electronic transmission), as indicated in an official correspondence log, or by a notation made on the document, information, or correspondence, by the Department or the EPA in the regular course of business.

(hhh) "Recordation, record, or recorded" means, with regard to NO_x allowances, the movement of NO_x allowances by the EPA from one NO_x Allowance Tracking System account to another, for purposes of allocation, transfer, or deduction.

(iii) "Reference method" means any direct test method of sampling and analyzing for an air pollutant as specified in appendix A of 40 CFR part 60.

(jjj) "Serial number" means, when referring to NO_x allowances, the unique identification number assigned to each NO_x allowance by the EPA, under Section 96.53(c).

(kkk) "Source" means any governmental, institutional, commercial, or industrial structure, installation, plant, building, or facility that emits or has the potential to emit any regulated air pollutant under the CAA. For purposes of section 502(c) of the CAA, a "source", including a "source" with multiple units, shall be considered a single "facility."

(lll) "State" means the State of South Carolina.

(mmm) "State trading program budget" means the total number of NO_x tons apportioned to all NO_x Budget units in a given State, in accordance with the NO_x Budget Trading Program, for use in a given control period.

(nnn) "Submit or serve" means to send or transmit a document, information, or correspondence to the person specified in accordance with the applicable regulation:

(1) In person;

(2) By United States Postal Service; or

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(3) By other means of dispatch or transmission and delivery. Compliance with any “submission,” “service,” or “mailing” deadline shall be determined by the date of dispatch, transmission, or mailing and not the date of receipt.

(ooo) “Title V operating permit” means a permit issued under Title V of the CAA and 40 CFR part 70 or 40 CFR part 71, and South Carolina Regulation 61-62.70, *Title V Operating Permit Program*.

(ppp) “Title V operating permit regulations” means the regulations that the EPA has approved or issued as meeting the requirements of Title V of the CAA and 40 CFR part 70 or 71.

(qqq) “Ton or tonnage” means any “short ton” (i.e., 2,000 pounds). For the purpose of determining compliance with the NO_x Budget emissions limitation, total tons for a control period shall be calculated as the sum of all recorded hourly emissions (or the tonnage equivalent of the recorded hourly emissions rates) in accordance with subpart H of this regulation, with any remaining fraction of a ton equal to or greater than 0.50 ton deemed to equal one ton and any fraction of a ton less than 0.50 ton deemed to equal zero tons.

(rrr) “Unit” means a fossil fuel-fired stationary boiler, combustion turbine, or combined cycle system.

(sss) “Unit load” means the total (i.e., gross) output of a unit in any control period (or other specified time period) produced by combusting a given heat input of fuel, expressed in terms of:

(1) The total electrical generation (MWe) produced by the unit, including generation for use within the plant;
or

(2) In the case of a unit that uses heat input for purposes other than electrical generation, the total steam pressure (psia) produced by the unit, including steam for use by the unit.

(ttt) “Unit operating day” means a calendar day in which a unit combusts any fuel.

(uuu) “Unit operating hour” or “hour of unit operation” means any hour (or fraction of an hour) during which a unit combusts any fuel.

(vvv) “Utilization” means the heat input (expressed in mmBtu/time) for a unit. The unit’s total heat input for the control period in each year will be determined in accordance with 40 CFR part 75 if the NO_x Budget unit was otherwise subject to the requirements of 40 CFR part 75 for the year, or will be based on the best available data reported to the EPA for the unit if the unit was not otherwise subject to the requirements of 40 CFR part 75 for the year.

Section 96.3 Measurements, abbreviations, and acronyms.

Measurements, abbreviations, and acronyms used in this regulation are defined as follows:

Btu-British thermal unit.
hr-hour.
Kwh-kilowatt hour.
lb-pounds.
mmBtu-million Btu.
MWe-megawatt electrical.
ton-2000 pounds
CO₂-carbon dioxide.
NO_x -nitrogen oxides.
O₂-oxygen.

Section 96.4 Applicability.

(a) The following units shall be NO_x Budget units, and any source that includes one or more such units shall be a NO_x Budget source, subject to the requirements of this regulation:

(1)(i) For units that commenced operation before January 1, 1999, a unit serving a generator that has a nameplate capacity greater than 25 MWe and, except for a unit that has a SIC code of 4911 or 4931, produces an annual average of more than one-third of its potential electrical output capacity for sale to the electric grid during any three calendar year period.

(ii) For units that commenced operation on or after January 1, 1999, a unit serving at any time a generator that has a nameplate capacity greater than 25MWe and produces electricity for sale.

(2)(i) For units that commenced operation before January 1, 1999, a unit that has a maximum design heat input greater than 250 mmBtu/hr and does not serve a generator that has a nameplate capacity greater than 25 MWe if any such generator produces an annual average of more than one-third of its potential electrical output capacity for sale to the electric grid during any three calendar year period.

(ii) For units that commenced operation on or after January 1, 1999, a unit that has a maximum design heat input greater than 250 mmBtu/hr that:

(A) At no time served a generator producing electricity for sale; or

(B) At any time served a generator producing electricity for sale, if any such generator has a nameplate capacity of 25MWe or less and has the potential to use no more than 50 percent of the potential electrical output capacity of the unit.

(b)(1) Notwithstanding paragraph (a) of this section, a unit under paragraph (a)(1) or (a)(2) of this section that has a federally enforceable permit restricting the unit to the combustion of only natural gas or fuel oil and includes a NO_x emission limitation restricting NO_x emissions during a control period to 25 tons or less and that includes the special provisions in paragraph (b)(4) of this section shall be exempt from the requirements of the NO_x Budget Trading Program, except for the provisions of this paragraph, Section 96.2, Section 96.3, Section 96.4(a), Section 96.7, and subparts E, F, and G of this regulation. The NO_x emission limitation under this paragraph (b)(1) shall restrict NO_x emissions during the control period by limiting unit operating hours. The restriction on unit operating hours shall be calculated by dividing 25 tons by the unit's maximum potential hourly NO_x mass emissions, which shall equal the unit's maximum rated hourly heat input multiplied by the highest default NO_x emission rate otherwise applicable to the unit under 40 CFR part 75 section 75.19.

(2) The exemption under paragraph (b)(1) of this section shall become effective as follows:

(i) The exemption shall become effective on the date on which the NO_x emission limitation and the special provisions in the permit under paragraph (b)(1) of this section become final; or

(ii) If the NO_x emission limitation and the special provisions in the permit under paragraph (b)(1) of this section become final during a control period and after the first date on which the unit operates during such control period, then the exemption shall become effective on May 1 of such control period, provided that such NO_x emission limitation and the special provisions apply to the unit as of such first date of operation. If such NO_x emission limitation and special provisions do not apply to the unit as of such first date of operation, then the exemption under paragraph (b)(1) of this section shall become effective on October 1 of the year during which such NO_x emission limitation and the special provisions become final.

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(3) The Department will provide the EPA written notice of the issuance of such permit under paragraph (b)(1) of this section for a unit under paragraph (a)(1) or (a)(2) of this section, and, upon request, a copy of the permit.

(4) Special provisions.

(i) A unit exempt under paragraph (b)(1) of this section shall comply with the restriction on unit operating hours described in paragraph (b)(1) of this section during the control period in each year.

(ii) The Department will allocate NO_x allowances to the unit under Section 96.41(a) through (c) and Section 96.42(a) through (c). For each control period for which the unit is allocated NO_x allowances under Section 96.41(a) through (c) and Section 96.42(a) through (c):

(A) The owners and operators of the unit must specify a general account, in which the EPA will record the NO_x allowances, and

(B) After the EPA records a NO_x allowance allocations under Section 96.41(a) through (c) and Section 96.42(a) through (c), the EPA will deduct, from the general account under paragraph (b)(4)(ii)(A) of this section, NO_x allowances that are allocated for the same or a prior control period as the NO_x allowances allocated to the unit under Section 96.41(a) through (c) and Section 96.42(a) through (c) and that equal the NO_x emission limitation (in tons of NO_x) on which the unit's exemption under paragraph (b)(1) of this section is based. The NO_x authorized account representative shall ensure that such general account contains the NO_x allowances necessary for completion of such deduction.

(iii) A unit exempt under this paragraph (b) shall report hours of unit operation during the control period in each year to the Department by November 1 of that year.

(iv) For a period of 5 years from the date the records are created, the owners and operators of a unit exempt under paragraph (b)(1) of this section shall retain, at the source that includes the unit, records demonstrating that the conditions of the federally enforceable permit under paragraph (b)(1) of this section were met, including the restriction on fuel use and unit operating hours. The 5-year period for keeping records may be extended for cause, at any time prior to the end of the period, in writing by the Department or the EPA. The owners and operators bear the burden of proof that the unit met the restriction on unit operating hours.

(v) The owners and operators and, to the extent applicable, the NO_x authorized account representative of a unit exempt under paragraph (b)(1) of this section shall comply with the requirements of the NO_x Budget Trading Program concerning all periods for which the exemption is not in effect, even if such requirements arise, or must be complied with, after the exemption takes effect.

(vi) On the earlier of the following dates, a unit exempt under paragraph (b)(1) of this section shall lose its exemption:

(A) The date on which the restriction on fuel use and unit operating hours described in paragraph (b)(1) of this section is removed from the unit's federally enforceable permit or otherwise becomes no longer applicable to any control period starting in 2004; or

(B) The first date on which the unit fails to comply, or with regard to which the owners and operators fail to meet their burden of proving that the unit is complying, with the restriction on fuel use and unit operating hours described in paragraph (b)(1) of this section during any control period starting in 2004.

(vii) A unit that loses its exemption in accordance with paragraph (b)(4)(vi) of this section shall be subject to the requirements of this part. For the purpose of applying permitting requirements under subpart C of this regulation, allocating allowances under subpart E of this regulation, and applying monitoring requirements

under subpart H of this regulation, the unit shall be treated as commencing operation and, if the unit is covered by paragraph (a)(1) of this section, commencing commercial operation on the date the unit loses its exemption.

(viii) A unit that is exempt under paragraph (b)(1) of this section is not eligible to be a NO_x Budget opt-in unit under subpart I of this regulation.

Section 96.5 Retired unit exemption.

(a) This section applies to any NO_x Budget unit, other than a NO_x Budget opt-in source, that is permanently retired.

(b) (1) Any NO_x Budget unit, other than a NO_x Budget opt-in source, that is permanently retired shall be exempt from the NO_x Budget Trading Program, except for the provisions of this section, Sections 96.2, 96.3, 96.4, 96.7 and subparts E, F, and G of this regulation.

(2) The exemption under paragraph (b)(1) of this section shall become effective the day on which the unit is permanently retired. Within 30 days of permanent retirement, the NO_x authorized account representative (authorized in accordance with subpart B of this regulation) shall submit a statement to the Department otherwise responsible for administering any NO_x Budget permit for the unit. A copy of the statement shall be submitted to the EPA. The statement shall state (in a format prescribed by the Department) that the unit is permanently retired and will comply with the requirements of paragraph (c) of this section.

(3) After receipt of the notice under paragraph (b)(2) of this section, the Department will amend any permit covering the source at which the unit is located to add the provisions and requirements of the exemption under paragraphs (b)(1) and (c) of this section.

(c) Special provisions.

(1) A unit exempt under this section shall not emit any nitrogen oxides, starting on the date that the exemption takes effect. The owners and operators of the unit will be allocated allowances in accordance with subpart E of this regulation.

(2) (i) A unit exempt under this section and located at a source that is required, or but for this exemption would be required, to have a Title V operating permit shall not resume operation unless the NO_x authorized account representative of the source submits a complete NO_x Budget permit application under Section 96.22 for the unit not less than 18 months (or such lesser time provided under the Department's Title V operating permits regulations for final action on a permit application) prior to the later of May 31, 2004, or the date on which the unit is to first resume operation.

(ii) A unit exempt under this section and located at a source that is required, or but for this exemption would be required, to have a non-Title V permit shall not resume operation unless the NO_x authorized account representative of the source submits a complete NO_x Budget permit application under Section 96.22 for the unit not less than 18 months (or such lesser time provided under the Department's non-Title V permits regulations for final action on a permit application) prior to the later of May 31, 2004, or the date on which the unit is to first resume operation.

(3) The owners and operators and, to the extent applicable, the NO_x authorized account representative of a unit exempt under this section shall comply with the requirements of the NO_x Budget Trading Program concerning all periods for which the exemption is not in effect, even if such requirements arise, or must be complied with, after the exemption takes effect.

(4) A unit that is exempt under this section is not eligible to be a NO_x Budget opt-in source under subpart I of this regulation.

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(5) For a period of 5 years from the date the records are created, the owners and operators of a unit exempt under this section shall retain at the source that includes the unit, records demonstrating that the unit is permanently retired. The 5-year period for keeping records may be extended for cause, at any time prior to the end of the period, in writing by the Department or the EPA. The owners and operators bear the burden of proof that the unit is permanently retired.

(6) Loss of exemption.

(i) On the earlier of the following dates, a unit exempt under paragraph (b) of this section shall lose its exemption:

(A) The date on which the NO_x authorized account representative submits a NO_x Budget permit application under paragraph (c)(2) of this section; or

(B) The date on which the NO_x authorized account representative is required under paragraph (c)(2) of this section to submit a NO_x Budget permit application.

(ii) For the purpose of applying monitoring requirements under subpart H of this regulation, a unit that loses its exemption under this section shall be treated as a unit that commences operation or commercial operation on the first date on which the unit resumes operation.

Section 96.6 Standard requirements.

(a) Permit Requirements.

(1) The NO_x authorized account representative of each NO_x Budget source required to have a federally enforceable permit and each NO_x Budget unit required to have a federally enforceable permit at the source shall:

(i) Submit to the Department a complete NO_x Budget permit application under Section 96.22 in accordance with the deadlines specified in Section 96.21(b) and (c);

(ii) Submit in a timely manner any supplemental information that the Department determines is necessary in order to review a NO_x Budget permit application and issue or deny a NO_x Budget permit.

(2) The owners and operators of each NO_x Budget source required to have a federally enforceable permit and each NO_x Budget unit required to have a federally enforceable permit at the source shall have a NO_x Budget permit issued by the Department and operate the unit in compliance with such NO_x Budget permit.

(3) The owners and operators of a NO_x Budget source that is not otherwise required to have a federally enforceable permit are not required to submit a NO_x Budget permit application, and to have a NO_x Budget permit, under subpart C of this regulation for such NO_x Budget source.

(b) Monitoring requirements.

(1) The owners and operators and, to the extent applicable, the NO_x authorized account representative of each NO_x Budget source and each NO_x Budget unit at the source shall comply with the monitoring requirements of subpart H of this regulation.

(2) The emissions measurements recorded and reported in accordance with subpart H of this regulation shall be used to determine compliance by the unit with the NO_x Budget emissions limitation under paragraph (c) of this section.

(c) Nitrogen oxides requirements.

(1) The owners and operators of each NO_x Budget source and each Budget unit at the source shall hold NO_x allowances available for compliance deductions under Section 96.54, as of the NO_x allowance transfer deadline, in the unit's compliance account and the source's overdraft account in an amount not less than the total NO_x emissions for the control period from the unit, as determined in accordance with subpart H of this regulation, plus any amount necessary to account for actual utilization under Section 96.42(e) for the control period.

(2) Each ton of nitrogen oxides emitted in excess of the NO_x Budget emissions limitation shall constitute a separate violation of this regulation, the CAA, and applicable State law.

(3) A NO_x Budget unit shall be subject to the requirements under paragraph (c)(1) of this section starting on the later of May 31, 2004, or the date on which the unit commences operation.

(4) NO_x allowances shall be held in, deducted from, or transferred among NO_x Allowance Tracking System accounts in accordance with subparts E, F, G, and I of this regulation.

(5) A NO_x allowance shall not be deducted, in order to comply with the requirements under paragraph (c)(1) of this section, for a control period in a year prior to the year for which the NO_x allowance was allocated.

(6) A allowance allocated by the Department under the NO_x Budget Trading Program is a limited authorization to emit one ton of nitrogen oxides in accordance with the NO_x Budget Trading Program. No provision of the NO_x Budget Trading Program, the NO_x Budget permit application, the NO_x Budget permit, or an exemption under Section 96.5 and no provision of law shall be construed to limit the authority of the State to terminate or limit such authorization.

(7) A NO_x allowance allocated by the Department under the NO_x Budget Trading Program does not constitute a property right.

(8) Upon recordation by the EPA under subpart F, G, or I of this regulation, every allocation, transfer, or deduction of a NO_x allowance to or from a NO_x Budget unit's compliance account or the overdraft account of the source where the unit is located is deemed to amend automatically, and become a part of, any NO_x Budget permit of the NO_x Budget unit by operation of law without any further review.

(d) Excess emissions requirements.

(1) The owners and operators of a NO_x Budget unit that has excess emissions in any control period shall:

(i) Surrender the NO_x allowances required for deduction under Section 96.54(d)(1); and

(ii) Pay any fine, penalty, or assessment or comply with any other remedy imposed under Section 96.54(d)(3).

(e) Recordkeeping and Reporting Requirements.

(1) Unless otherwise provided, the owners and operators of the NO_x Budget source and each NO_x Budget unit at the source shall keep on site at the source each of the following documents for a period of 5 years from the date the document is created. This period may be extended for cause, at any time prior to the end of 5 years, in writing by the Department or the EPA.

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(i) The account certificate of representation for the NO_x authorized account representative for the source and each NO_x Budget unit at the source and all documents that demonstrate the truth of the statements in the account certificate of representation, in accordance with Section 96.13; provided that the certificate and documents shall be retained on site at the source beyond such 5-year period until such documents are superseded because of the submission of a new account certificate of representation changing the NO_x authorized account representative.

(ii) All emissions monitoring information, in accordance with subpart H of this regulation; provided that to the extent that subpart H of this regulation provides for a 3-year period for recordkeeping, the 3-year period shall apply.

(iii) Copies of all reports, compliance certifications, and other submissions and all records made or required under the NO_x Budget Trading Program.

(iv) Copies of all documents used to complete a NO_x Budget permit application and any other submission under the NO_x Budget Trading Program or to demonstrate compliance with the requirements of the NO_x Budget Trading Program.

(2) The NO_x authorized account representative of a NO_x Budget source and each NO_x Budget unit at the source shall submit the reports and compliance certifications required under the NO_x Budget Trading Program, including those under subparts D, H, or I of this regulation.

(f) Liability.

(1) Any person who knowingly violates any requirement or prohibition of the NO_x Budget Trading Program, a NO_x Budget permit, or an exemption under Section 96.5 shall be subject to enforcement pursuant to applicable State or Federal law.

(2) Any person who knowingly makes a false material statement in any record, submission, or report under the NO_x Budget Trading Program shall be subject to criminal enforcement pursuant to the applicable State or Federal law.

(3) No permit revision shall excuse any violation of the requirements of the NO_x Budget Trading Program that occurs prior to the date that the revision takes effect.

(4) Each NO_x Budget source and each NO_x Budget unit shall meet the requirements of the NO_x Budget Trading Program.

(5) Any provision of the NO_x Budget Trading Program that applies to a NO_x Budget source (including a provision applicable to the NO_x authorized account representative of a NO_x Budget source) shall also apply to the owners and operators of such source and of the NO_x Budget units at the source.

(6) Any provision of the NO_x Budget Trading Program that applies to a NO_x Budget unit (including a provision applicable to the NO_x authorized account representative of a NO_x budget unit) shall also apply to the owners and operators of such unit. Except with regard to the requirements applicable to units with a common stack under subpart H of this regulation, the owners and operators and the NO_x authorized account representative of one NO_x Budget unit shall not be liable for any violation by any other NO_x Budget unit of which they are not owners or operators or the NO_x authorized account representative and that is located at a source of which they are not owners or operators or the NO_x authorized account representative.

(g) Effect on Other Authorities. No provision of the NO_x Budget Trading Program, a NO_x Budget permit application, a NO_x Budget permit, or an exemption under Section 96.5 shall be construed as exempting or excluding the owners and operators and, to the extent applicable, the NO_x authorized account representative of a

NO_x Budget source or NO_x Budget unit from compliance with any other provision of the applicable, approved State implementation plan, a federally enforceable permit, or the CAA.

Section 96.7 Computation of time.

- (a) Unless otherwise stated, any time period scheduled, under the NO_x Budget Trading Program, to begin on the occurrence of an act or event shall begin on the day the act or event occurs.
- (b) Unless otherwise stated, any time period scheduled, under the NO_x Budget Trading Program, to begin before the occurrence of an act or event shall be computed so that the period ends the day before the act or event occurs.
- (c) Unless otherwise stated, if the final day of any time period, under the NO_x Budget Trading Program, falls on a weekend or a State or Federal holiday, the time period shall be extended to the next business day.

Subpart B - NO_x Authorized Account Representative for NO_x Budget Sources

Section 96.10 Authorization and responsibilities of the NO_x authorized account representative.

- (a) Except as provided under Section 96.11, each NO_x Budget source, including all NO_x Budget units at the source, shall have one and only one NO_x authorized account representative, with regard to all matters under the NO_x Budget Trading Program concerning the source or any NO_x Budget unit at the source.
- (b) The NO_x authorized account representative of the NO_x Budget source shall be selected by an agreement binding on the owners and operators of the source and all NO_x Budget units at the source.
- (c) Upon receipt by the EPA of a complete account certificate of representation under Section 96.13, the NO_x authorized account representative of the source shall represent and, by his or her representations, actions, inactions, or submissions, legally bind each owner and operator of the NO_x Budget source represented and each NO_x Budget unit at the source in all matters pertaining to the NO_x Budget Trading Program, notwithstanding any agreement between the NO_x authorized account representative and such owners and operators. The owners and operators shall be bound by any decision or order issued to the NO_x authorized account representative by the Department, the EPA, or a court regarding the source or unit.
- (d) No NO_x Budget permit shall be issued, and no NO_x Allowance Tracking System account shall be established for a NO_x Budget unit at a source, until the EPA has received a complete account certificate of representation under Section 96.13 for a NO_x authorized account representative of the source and the NO_x Budget units at the source.
- (e) (1) Each submission under the NO_x Budget Trading Program shall be submitted, signed, and certified by the NO_x authorized account representative for each NO_x Budget source on behalf of which the submission is made. Each such submission shall include the following certification statement by the NO_x authorized account representative: "I am authorized to make this submission on behalf of the owners and operators of the NO_x Budget sources or NO_x Budget units for which the submission is made. I certify under penalty of law that I have personally examined, and am familiar with, the statements and information submitted in this document and all its attachments. Based on my inquiry of those individuals with primary responsibility for obtaining the information, I certify that the statements and information are to the best of my knowledge and belief true, accurate, and complete. I am aware that there are significant penalties for submitting false statements and information or omitting required statements and information, including the possibility of fine or imprisonment."
- (2) The Department and the EPA will accept or act on a submission made on behalf of owner or operators of a NO_x Budget source or a NO_x Budget unit only if the submission has been made, signed, and certified in accordance with paragraph (e)(1) of this section.

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Section 96.11 Alternate NO_x authorized account representative.

(a) An account certificate of representation may designate one and only one alternate NO_x authorized account representative who may act on behalf of the NO_x authorized account representative. The agreement by which the alternate NO_x authorized account representative is selected shall include a procedure for authorizing the alternate NO_x authorized account representative to act in lieu of the NO_x authorized account representative.

(b) Upon receipt by the EPA of a complete account certificate of representation under Section 96.13, any representation, action, inaction, or submission by the alternate NO_x authorized account representative shall be deemed to be a representation, action, inaction, or submission by the NO_x authorized account representative.

(c) Except in this section and Sections 96.10(a), 96.12, 96.13, and 96.51, whenever the term “NO_x authorized account representative” is used in this regulation, the term shall be construed to include the alternate NO_x authorized account representative.

Section 96.12 Changing the NO_x authorized account representative and the alternate NO_x authorized account representative; changes in the owners and operators.

(a) Changing the NO_x authorized account representative. The NO_x authorized account representative may be changed at any time upon receipt by the EPA of a superseding complete account certificate of representation under Section 96.13. Notwithstanding any such change, all representations, actions, inactions, and submissions by the previous NO_x authorized account representative prior to the time and date when the EPA receives the superseding account certificate of representation shall be binding on the new NO_x authorized account representative and the owners and operators of the NO_x Budget source and the NO_x Budget units at the source.

(b) Changing the alternate NO_x authorized account representative. The alternate NO_x authorized account representative may be changed at any time upon receipt by the EPA of a superseding complete account certificate of representation under Section 96.13. Notwithstanding any such change, all representations, actions, inactions, and submissions by the previous alternate NO_x authorized account representative prior to the time and date when the EPA receives the superseding account certificate of representation shall be binding on the new alternate NO_x authorized account representative and the owners and operators of the NO_x Budget source and the NO_x Budget units at the source.

(c) Changes in the owners and operators.

(1) In the event a new owner or operator of a NO_x Budget source or a NO_x Budget unit is not included in the list of owners and operators submitted in the account certificate of representation, such new owner or operator shall be deemed to be subject to and bound by the account certificate of representation, the representations, actions, inactions, and submissions of the NO_x authorized account representative and any alternate NO_x authorized account representative of the source or unit, and the decisions, orders, actions, and inactions of the Department or the EPA, as if the new owner or operator were included in such list.

(2) Within 30 days following any change in the owners and operators of a NO_x Budget source or a NO_x Budget unit, including the addition of a new owner or operator, the NO_x authorized account representative or alternate NO_x authorized account representative shall submit a revision to the account certificate of representation amending the list of owners and operators to include the change.

Section 96.13 Account certificate of representation.

(a) A complete account certificate of representation for a NO_x authorized account representative or an alternate NO_x authorized account representative shall include the following elements in a format prescribed by the EPA:

(1) Identification of the NO_x Budget source and each NO_x Budget unit at the source for which the account certificate of representation is submitted.

(2) The name, address, e-mail address (if any), telephone number, and facsimile transmission number (if any) of the NO_x authorized account representative and any alternate NO_x authorized account representative.

(3) A list of the owners and operators of the NO_x Budget source and of each NO_x Budget unit at the source.

(4) The following certification statement by the NO_x authorized account representative and any alternate NO_x authorized account representative: "I certify that I was selected as the NO_x authorized account representative or alternate NO_x authorized account representative, as applicable, by an agreement binding on the owners and operators of the NO_x Budget source and each NO_x Budget unit at the source. I certify that I have all the necessary authority to carry out my duties and responsibilities under the NO_x Budget Trading Program on behalf of the owners and operators of the NO_x Budget source and of each NO_x Budget unit at the source and that each such owner and operator shall be fully bound by my representations, actions, inactions, or submissions and by any decision or order issued to me by the Department, the EPA, or a court regarding the source or unit."

(5) The signature of the NO_x authorized account representative and any alternate NO_x authorized account representative and the dates signed.

(b) Unless otherwise required by the Department or the EPA, documents of agreement referred to in the account certificate of representation shall not be submitted to the Department or the EPA. Neither the Department nor the EPA shall be under any obligation to review or evaluate the sufficiency of such documents, if submitted.

Section 96.14 Objections concerning the NO_x authorized account representative.

(a) Once a complete account certificate of representation under Section 96.13 has been submitted and received, the Department and the EPA will rely on the account certificate of representation unless and until a superseding complete account certificate of representation under Section 96.13 is received by the EPA.

(b) Except as provided in Section 96.12(a) or (b), no objection or other communication submitted to the Department or the EPA concerning the authorization, or any representation, action, inaction, or submission of the NO_x authorized account representative shall affect any representation, action, inaction, or submission of the NO_x authorized account representative or the finality of any decision or order by the Department or the EPA under the NO_x Budget Trading Program.

(c) Neither the Department nor the EPA will adjudicate any private legal dispute concerning the authorization or any representation, action, inaction, or submission of any NO_x authorized account representative, including private legal disputes concerning the proceeds of NO_x allowance transfers.

Subpart C -- Permits

Section 96.20 General NO_x budget trading program permit requirements.

(a) For each NO_x Budget source required to have a federally enforceable permit, such permit shall include a NO_x Budget permit administered by the Department.

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(1) For NO_x Budget sources required to have a Title V operating permit, the NO_x Budget portion of the Title V permit shall be administered in accordance with the Department's Title V operating permits regulations promulgated under 40 CFR part 70 or 71, except as provided otherwise by this subpart or subpart I of this regulation. The applicable provisions of such Title V operating permits regulations shall include, but are not limited to, those provisions addressing operating permit applications, operating permit application shield, operating permit duration, operating permit shield, operating permit issuance, operating permit revision and reopening, public participation, State review, and review by the EPA.

(2) For NO_x Budget sources required to have a non-Title V permit, the NO_x Budget portion of the non-Title V permit shall be administered in accordance with the Department's regulations promulgated to administer non-Title V permits, except as provided otherwise by this subpart or subpart I of this regulation. The applicable provisions of such non-Title V permits regulations may include, but are not limited to, provisions addressing permit applications, permit application shield, permit duration, permit shield, permit issuance, permit revision and reopening, public participation, State review, and review by the EPA.

(b) Each NO_x Budget permit (including a draft or proposed NO_x Budget permit, if applicable) shall contain all applicable NO_x Budget Trading Program requirements and shall be a complete and segregable portion of the permit under paragraph (a) of this section.

Section 96.21 NO_x Budget permit applications.

(a) Duty to apply. The NO_x authorized account representative of any NO_x Budget source required to have a federally enforceable permit shall submit to the Department a complete NO_x Budget permit application under Section 96.22 by the applicable deadline in paragraph (b) of this section.

(b) (1) For NO_x Budget sources required to have a Title V operating permit:

(i) For any source, with one or more NO_x Budget units under Section 96.4 that commence operation before January 1, 2000, the NO_x authorized account representative shall submit a complete NO_x Budget permit application under Section 96.22 covering such NO_x Budget units to the Department at least 18 months (or such lesser time provided under the Department's Title V operating permits regulations for final action on a permit application) before May 31, 2004.

(ii) For any source, with any NO_x Budget unit under Section 96.4 that commences operation on or after January 1, 2000, the NO_x authorized account representative shall submit a complete NO_x Budget permit application under Section 96.22 covering such NO_x Budget unit to the Department at least 18 months (or such lesser time provided under the Department's Title V operating permits regulations for final action on a permit application) before the later of May 31, 2004, or the date on which the NO_x Budget unit commences operation.

(2) For NO_x Budget sources required to have a non-Title V permit:

(i) For any source, with one or more NO_x Budget units under Section 96.4 that commence operation before January 1, 2000, the NO_x authorized account representative shall submit a complete NO_x Budget permit application under Section 96.22 covering such NO_x Budget units to the Department at least 18 months (or such lesser time provided under the Department's non-Title V permits regulations for final action on a permit application) before May 31, 2004.

(ii) For any source, with any NO_x Budget unit under Section 96.4 that commences operation on or after January 1, 2000, the NO_x authorized account representative shall submit a complete NO_x Budget permit application under Section 96.22 covering such NO_x Budget unit to the Department at least 18 months (or such lesser time provided under the Department's non-Title V permits regulations for final action on a permit application) before the later of May 31, 2004, or the date on which the NO_x Budget unit commences operation.

(c) Duty to Reapply.

(1) For a NO_x Budget source required to have a Title V operating permit, the NO_x authorized account representative shall submit a complete NO_x Budget permit application under Section 96.22 for the NO_x Budget source covering the NO_x Budget units at the source in accordance with the Department's Title V operating permits regulations addressing operating permit renewal.

(2) For a NO_x Budget source required to have a non-Title V permit, the NO_x authorized account representative shall submit a complete NO_x Budget permit application under Section 96.22 for the NO_x Budget source covering the NO_x Budget units at the source in accordance with the Department's non-Title V permits regulations addressing permit renewal.

Section 96.22 Information requirements for NO_x Budget permit applications.

A complete NO_x Budget permit application shall include the following elements concerning the NO_x Budget source for which the application is submitted, in a format prescribed by the Department:

- (a) Identification of the NO_x Budget source, including plant name and the ORIS (Office of Regulatory Information Systems) or facility code assigned to the source by the Energy Information Administration, if applicable;
- (b) Identification of each NO_x Budget unit at the NO_x Budget source and whether it is a NO_x Budget unit under Section 96.4 or under subpart I of this regulation;
- (c) The standard requirements under Section 96.6; and
- (d) For each NO_x Budget opt-in unit at the NO_x Budget source, the following certification statements by the NO_x authorized account representative:

(1) "I certify that each unit for which this permit application is submitted under subpart I of this regulation is not a NO_x Budget unit under 40 CFR part 96.4 and is not covered by a retired unit exemption under 40 CFR part 96.5 that is in effect."

(2) If the application is for an initial NO_x Budget opt-in permit, "I certify that each unit for which this permit application is submitted under subpart I is currently operating, as that term is defined under 40 CFR part 96.2."

Section 96.23 NO_x Budget permit contents.

- (a) Each NO_x Budget permit (including any draft or proposed NO_x Budget permit, if applicable) will contain, in a format prescribed by the Department, all elements required for a complete NO_x Budget permit application under Section 96.22.
- (b) Each NO_x Budget permit is deemed to incorporate automatically the definitions of terms under Section 96.2 and, upon recordation by the EPA under subparts F, G, or I of this regulation, every allocation, transfer, or deduction of a NO_x allowance to or from the compliance accounts of the NO_x Budget units covered by the permit or the overdraft account of the NO_x Budget source covered by the permit.

Section 96.24 Effective date of initial NO_x Budget permit.

The initial NO_x Budget permit covering a NO_x Budget unit for which a complete NO_x Budget permit application is timely submitted under Section 96.21(b) shall become effective by the later of:

- (a) May 31, 2004;

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(b) May 1 of the year in which the NO_x Budget unit commences operation, if the unit commences operation on or before May 1 of that year;

(c) The date on which the NO_x Budget unit commences operation, if the unit commences operation during a control period; or

(d) May 1 of the year following the year in which the NO_x Budget unit commences operation, if the unit commences operation on or after October 1 of the year.

Section 96.25 NO_x Budget permit revisions.

(a) For a NO_x Budget source with a Title V operating permit, except as provided in Section 96.23(b), the Department will revise the NO_x Budget permit, as necessary, in accordance with the Department's Title V operating permits regulations addressing permit revisions.

(b) For a NO_x Budget source with a non-Title V permit, except as provided in Section 96.23(b), the Department will revise the NO_x Budget permit, as necessary, in accordance with the Department's non-Title V permits regulations addressing permit revisions.

Subpart D - Compliance Certification

Section 96.30 Compliance certification report.

(a) Applicability and deadline. For each control period in which one or more NO_x Budget units at a source are subject to the NO_x Budget emissions limitation, the NO_x authorized account representative of the source shall submit to the Department and the EPA by November 30 of that year, a compliance certification report for each source covering all such units.

(b) Contents of report. The NO_x authorized account representative shall include in the compliance certification report under paragraph (a) of this section the following elements, in a format prescribed by the EPA, concerning each unit at the source and subject to the NO_x Budget emissions limitation for the control period covered by the report:

(1) Identification of each NO_x Budget unit;

(2) At the NO_x authorized account representative's option, the serial numbers of the NO_x allowances that are to be deducted from each unit's compliance account under Section 96.54 for the control period;

(3) At the NO_x authorized account representative's option, for units sharing a common stack and having NO_x emissions that are not monitored separately or apportioned in accordance with subpart H of this regulation, the percentage of allowances that is to be deducted from each unit's compliance account under Section 96.54(e); and

(4) The compliance certification under paragraph (c) of this section.

(c) Compliance certification. In the compliance certification report under paragraph (a) of this section, the NO_x authorized account representative shall certify, based on reasonable inquiry of those persons with primary responsibility for operating the source and the NO_x Budget units at the source in compliance with the NO_x Budget Trading Program, whether each NO_x Budget unit for which the compliance certification is submitted was operated during the calendar year covered by the report in compliance with the requirements of the NO_x Budget Trading Program applicable to the unit, including:

(1) Whether the unit was operated in compliance with the NO_x Budget emissions limitation;

(2) Whether the monitoring plan that governs the unit has been maintained to reflect the actual operation and monitoring of the unit, and contains all information necessary to attribute NO_x emissions to the unit, in accordance with subpart H of this regulation;

(3) Whether all the NO_x emissions from the unit, or a group of units (including the unit) using a common stack, were monitored or accounted for through the missing data procedures and reported in the quarterly monitoring reports, including whether conditional data were reported in the quarterly reports in accordance with subpart H of this regulation. If conditional data were reported, the owner or operator shall indicate whether the status of all conditional data has been resolved and all necessary quarterly report resubmissions has been made;

(4) Whether the facts that form the basis for certification under subpart H of this regulation of each monitor at the unit or a group of units (including the unit) using a common stack, or for using an excepted monitoring method or alternative monitoring method approved under subpart H of this regulation, if any, has changed; and

(5) If a change is required to be reported under paragraph (c)(4) of this section, specify the nature of the change, the reason for the change, when the change occurred, and how the unit's compliance status was determined subsequent to the change, including what method was used to determine emissions when a change mandated the need for monitor recertification.

Section 96.31 Department's and EPA's action on compliance certifications.

(a) The Department or the EPA may review and conduct independent audits concerning any compliance certification or any other submission under the NO_x Budget Trading Program and make appropriate adjustments of the information in the compliance certifications or other submissions.

(b) The EPA may deduct NO_x allowances from or transfer NO_x allowances to a unit's compliance account or a source's overdraft account based on the information in the compliance certifications or other submissions, as adjusted under paragraph (a) of this section.

Subpart E - NO_x Allowance Allocations

Section 96.40 State trading program budget.

The State trading program budget allocated by the Department under Section 96.42 for a control period is 19,678 tons. In accordance with Sections 96.41 and 96.42, the Department will allocate to the NO_x Budget units under Section 96.4(a) for each control period a total number of NO_x allowances equal to the trading program budget specified above, less the sum of the NO_x emission limitations (in tons) for each unit exempt under Section 96.4(b) that is not allocated any NO_x allowances under Section 96.42(b) or (c) for the control period and whose NO_x emission limitation (in tons of NO_x) is not included in the amount calculated under Section 96.42(d)(5)(ii)(B).

Section 96.41 Timing requirements for NO_x allowance allocations.

(a) By the effective date of this regulation, the Department will submit to the EPA the NO_x allowance allocations, in accordance with Section 96.42, for the control periods in 2004, 2005, and 2006.

(b) By April 1, 2004, and by April 1 of each five years thereafter, the Department will submit to the EPA the NO_x allowance allocations, in accordance with Section 96.42, for the control periods in the years that are three, four, five, six and seven years after the applicable deadline for submission under this paragraph (b). If the Department fails to submit to the EPA the NO_x allowance allocations in accordance with this paragraph (b), the EPA will allocate, for the applicable control period, the same number of NO_x allowances as were allocated for the preceding control period.

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(c) By April 1, 2005 and April 1 of each year thereafter, the Department will submit to the EPA the NO_x allowance allocations, in accordance with Section 96.42, for any NO_x allowances remaining in the allocation set-aside for the prior control period.

Section 96.42 NO_x allowance allocations.

(a) (1) The heat input (in mmBtu) used for calculating NO_x allowance allocations for each NO_x Budget unit under Section 96.4 will be:

(i) For a NO_x allowance allocation under Section 96.41(a), the average of the two highest amounts of the unit's heat input for the control periods in 1995, 1996, 1997, 1998, and 1999, if the unit is under Section 96.4(a)(1), or if the unit is under Section 96.4(a)(2), the NO_x allowance shall be as set forth in the State Implementation Plan; and

(ii) For a NO_x allowance allocation under Section 96.41(b), the average of the two highest amounts of the unit's heat input for the control period in the years that are four, five, six, seven and eight years before the first year for which the NO_x allocation is being calculated or if a unit only operated during one of these control periods the heat input during the single year of operation.

(2) The unit's total heat input for the control period in each year specified under paragraph (a)(1) of this section will be determined in accordance with 40 CFR part 75 if the NO_x Budget unit was otherwise subject to the requirements of 40 CFR part 75 for the year, or will be based on the best available data reported to the Department for the unit if the unit was not otherwise subject to the requirements of 40 CFR part 75 for the year.

(b) For each control period under Section 96.41, the Department will allocate to all NO_x Budget units under Section 96.4(a)(1) in the State that commenced operation before May 1 of the period used to calculate heat input under paragraph (a)(1) of this section, a total number of NO_x allowances equal to 96 percent in 2004, 2005, and 2006, or 97 percent thereafter, of the tons of NO_x emissions in the State trading program budget apportioned to electric generating units under Section 96.40 in accordance with the following procedures:

(1) The Department will allocate NO_x allowances to each NO_x Budget unit under Section 96.4(a)(1) in an amount equaling 0.15 lb/mmBtu multiplied by the heat input determined under paragraph (a) of this section, rounded to the nearest whole NO_x allowance as appropriate.

(2) If the initial total number of NO_x allowances allocated to all NO_x Budget units under Section 96.4(a)(1) in the State for a control period under paragraph (b)(1) of this section does not equal 96 percent in 2004, 2005, and 2006, or 97 percent thereafter, of the number of tons of NO_x emissions in the State trading program budget apportioned to electric generating units, the Department will adjust the total number of NO_x allowances allocated to all such NO_x Budget units for the control period under paragraph (b)(1) of this section so that the total number of NO_x allowances allocated equals 96 percent in 2004, 2005, and 2006, or 97 percent thereafter, of the number of tons of NO_x emissions in the State trading program budget apportioned to electric generating units. This adjustment will be made by: multiplying each unit's allocation by 96 percent in 2004, 2005, and 2006, or 97 percent thereafter, of the number of tons of NO_x emissions in the State trading program budget apportioned to electric generating units divided by the total number of NO_x allowances allocated under paragraph (b)(1) of this section, and rounding to the nearest whole NO_x allowance as appropriate.

(c) For each control period under Section 96.41, the Department will allocate to all NO_x Budget units under Section 96.4(a)(2) in the State that commenced operation before May 1 of the period used to calculate heat input under paragraph (a)(1) of this section, a total number of NO_x allowances equal to 96 percent in 2004, 2005, and 2006, or 97 percent thereafter, of the tons of NO_x emissions in the State trading program budget apportioned to non-electric generating units under Section 96.40 in accordance with the following procedures:

(1) The Department will allocate NO_x allowances to each NO_x Budget unit under Section 96.4(a)(2) in an amount equaling 0.17 lb/mmBtu multiplied by the heat input determined under paragraph (a) of this section, rounded to the nearest whole NO_x allowance as appropriate.

(2) If the initial total number of NO_x allowances allocated to all NO_x Budget units under Section 96.4(a)(2) in the State for a control period under paragraph (c)(1) of this section does not equal 96 percent in 2004, 2005, and 2006, or 97 percent thereafter, of the number of tons of NO_x emissions in the State trading program budget apportioned to non-electric generating units, the Department will adjust the total number of NO_x allowances allocated to all such NO_x Budget units for the control period under paragraph (c)(1) of this section so that the total number of NO_x allowances allocated equals 96 percent in 2004, 2005, and 2006, or 97 percent thereafter, of the number of tons of NO_x emissions in the State trading program budget apportioned to non-electric generating units. This adjustment will be made by: multiplying each unit's allocation by 96 percent in 2004, 2005, and 2006, or 97 percent thereafter, of the number of tons of NO_x emissions in the State trading program budget apportioned to non-electric generating units divided by the total number of NO_x allowances allocated under paragraph (c)(1) of this section, and rounding to the nearest whole NO_x allowance as appropriate.

(d) For each control period under Section 96.41, the Department will allocate NO_x allowances to NO_x Budget units under Section 96.4 in the State that commenced operation, or are projected to commence operation, on or after May 1 of the year that is four years prior to the first year of the period for which NO_x allowances are being calculated, in accordance with the following procedures:

(1) The Department will establish one allocation set-aside for each control period. Each allocation set-aside will be allocated NO_x allowances equal to 4 percent in 2004, 2005, and 2006, or 3 percent thereafter, of the tons of NO_x emissions in the State trading program budget under Section 96.40, rounded to the nearest whole NO_x allowance as appropriate.

(2) The NO_x authorized account representative of a NO_x Budget unit under paragraph (d) of this section may submit to the Department a request, in writing or in a format specified by the Department, to be allocated NO_x allowances for the control period. The NO_x allowance allocation request must be received on or after the date on which the Department issues a permit to construct the unit and by January 1 before the control period for which the NO_x allowance allocation is requested.

(3) In a NO_x allowance allocation request under paragraph (d)(2) of this section, the NO_x authorized account representative for units under Section 96.4(a)(1) may request for a control period NO_x allowances in an amount that does not exceed 0.15 lb/mmBtu multiplied by the NO_x Budget unit's maximum design heat input (in mmBtu/hr) multiplied by the number of hours remaining in the control period starting with the first day in the control period on which the unit operated or is projected to operate.

(4) In a NO_x allowance allocation request under paragraph (d)(2) of this section, the NO_x authorized account representative for units under Section 96.4(a)(2) may request for a control period NO_x allowances in an amount that does not exceed 0.17 lb/mmBtu multiplied by the NO_x Budget unit's maximum design heat input (in mmBtu/hr) multiplied by the number of hours remaining in the control period starting with the first day in the control period on which the unit operated or is projected to operate.

(5) The Department will review each NO_x allowance allocation request under paragraph (d)(2) of this and will allocate NO_x allowances pursuant to such request as follows:

(i) Upon receipt of the NO_x allowance allocation request, the permitting authority will determine whether, and will make any necessary adjustments to the request to ensure that, for units under Section 96.4(a)(1), the control period and the number of allowances specified are consistent with the requirements of paragraphs (d)(2) and (3) of this section and, for units under Section 96.4(a)(2), the control period and the number of allowances specified are consistent with the requirements of paragraphs (d)(2) and (4) of this section.

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(ii) The Department will determine the following:

(A) The sum of the NO_x allowances requested (as adjusted under paragraph (d)(5)(i) of this section) in all NO_x allowance allocation requests under paragraph (d)(2) of this section for the control period; and

(B) For units exempt under Section 96.4(b), the sum of the NO_x emission limitations (in tons of NO_x) on which each unit's exemption under Section 96.4(b) is based.

(iii) If the number of NO_x allowances in the allocation set-aside for the control is not less than the amount determined under paragraph (d)(5)(ii) of this section, the Department will allocate the amount of the NO_x allowances requested (as adjusted under paragraph (d)(5)(i) of this section) to the NO_x Budget unit for which the allocation request was submitted.

(iv) If the number of NO_x allowances in the allocation set-aside for the control is less than the amount determined under paragraph (d)(5)(ii) of this section, the Department will allocate, to the NO_x Budget unit for which the allocation request was submitted, the amount of NO_x allowances requested (as adjusted under paragraph (d)(5)(i) of this section) multiplied by the number of NO_x allowances in the allocation set-aside for the control period, divided by the amount determined under paragraph (d)(5)(ii) of this section, and rounded to the nearest whole number of NO_x allowances as appropriate.

(iv) Once an allocation set-aside for a control period has been depleted of all NO_x allowances, the permitting authority will deny, and will not allocate any NO_x allowances pursuant to, any NO_x allowance allocation request under which NO_x allowances have not already been allocated for the control period.

(6) By no later than March 1 of each control period, the Department will take appropriate action under paragraph (d)(5) of this section and notify the NO_x authorized account representative that submitted the request and the EPA of the number of NO_x allowances (if any) allocated for the control period to the NO_x Budget unit.

(e) For a NO_x Budget unit that is allocated NO_x allowances under paragraph (d) of this section for a control period, the EPA will deduct NO_x allowances under Section 96.54(b) or (e) to account for the actual utilization of the unit during the control period. The EPA will calculate the number of NO_x allowances to be deducted to account for the unit's actual utilization using the following formulas and rounding to the nearest whole NO_x allowance as appropriate, provided that the number of NO_x allowances to be deducted shall be zero if the number calculated is less than zero:

NO_x allowances deducted for actual utilization for units under Section 96.4(a)(1) = (Unit's NO_x allowances allocated for control period) - (Unit's actual control period utilization x 0.15 lb/mmBtu); and

NO_x allowances deducted for actual utilization for units under Section 96.4(a)(2) = (Unit's NO_x allowances allocated for control period) - (Unit's actual control period utilization x 0.17 lb/mmBtu)

where:

“Unit's NO_x allowances allocated for control period” is the number of NO_x allowances allocated to the unit for the control period under paragraph (d) of this section; and

“Unit's actual control period utilization” is the utilization (in mmBtu), as defined in Section 96.2, of the unit during the control period.

(f) After making the deductions for compliance under Section 96.54(b) or (e) for a control period, the EPA will notify the Department whether any NO_x allowances remain in the allocation set-aside for the control period. The Department will allocate any such NO_x allowances to the NO_x Budget units in the State using the following formula and rounding to the nearest whole NO_x allowance as appropriate:

Unit's share of NO_x allowances remaining in allocation set-aside = Total NO_x allowances remaining in allocation set-aside x (Unit's NO_x allowance allocation ÷ State trading program budget excluding allocation set-aside)

where:

“Total NO_x allowances remaining in allocation set-aside” is the total number of NO_x allowances remaining in the allocation set-aside for the control period to which the allocation set-aside applies;

“Unit's NO_x allowance allocation” is the number of NO_x allowances allocated under paragraph (b) or (c) of this section to the unit for the control period to which the allocation set-aside applies; and

“State trading program budget excluding allocation set-aside” is the State trading program budget under Section 96.40 for the control period to which the allocation set-aside applies multiplied by 96 percent if the control period is in 2004, 2005, or 2006, or 97 percent if the control period is in any year thereafter, rounded to the nearest whole NO_x allowance as appropriate.

Subpart F - NO_x Allowance Tracking System

Section 96.50 NO_x Allowance Tracking System accounts.

(a) Nature and function of compliance accounts and overdraft accounts. Consistent with Section 96.51(a), the EPA will establish one compliance account for each NO_x Budget unit and one overdraft account for each source with one or more NO_x Budget units. Allocations of NO_x allowances pursuant to subpart E of this regulation or Section 96.88 and deductions or transfers of NO_x allowances pursuant to Section 96.31, Section 96.54, Section 96.56, subpart G of this regulation, or subpart I of this regulation will be recorded in the compliance accounts or overdraft accounts in accordance with this subpart.

(b) Nature and function of general accounts. Consistent with Section 96.51(b), the EPA will establish, upon request, a general account for any person. Transfers of allowances pursuant to subpart G of this regulation will be recorded in the general account in accordance with this subpart.

Section 96.51 Establishment of accounts.

(a) Compliance accounts and overdraft accounts. Upon receipt of a complete account certificate of representation under Section 96.13, the EPA will establish:

(1) A compliance account for each NO_x Budget unit for which the account certificate of representation was submitted; and

(2) An overdraft account for each source for which the account certificate of representation was submitted and that has two or more NO_x Budget units.

(b) General accounts.

(1) Any person may apply to open a general account for the purpose of holding and transferring allowances. A complete application for a general account shall be submitted to the EPA and shall include the following elements in a format prescribed by the EPA:

(i) Name, mailing address, e-mail address (if any), telephone number, and facsimile transmission number (if any) of the NO_x authorized account representative and any alternate NO_x authorized account representative;

(ii) At the option of the NO_x authorized account representative, organization name and type of organization;

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(iii) A list of all persons subject to a binding agreement for the NO_x authorized account representative or any alternate NO_x authorized account representative to represent their ownership interest with respect to the allowances held in the general account;

(iv) The following certification statement by the NO_x authorized account representative and any alternate NO_x authorized account representative: "I certify that I was selected as the NO_x authorized account representative or the NO_x alternate authorized account representative, as applicable, by an agreement that is binding on all persons who have an ownership interest with respect to allowances held in the general account. I certify that I have all the necessary authority to carry out my duties and responsibilities under the NO_x Budget Trading Program on behalf of such persons and that each such person shall be fully bound by my representations, actions, inactions, or submissions and by any order or decision issued to me by the EPA or a court regarding the general account."

(v) The signature of the NO_x authorized account representative and any alternate NO_x authorized account representative and the dates signed.

(vi) Unless otherwise required by the Department or the EPA, documents of agreement referred to in the account certificate of representation shall not be submitted to the Department or the EPA. Neither the Department nor the EPA shall be under any obligation to review or evaluate the sufficiency of such documents, if submitted.

(2) Upon receipt by the EPA of a complete application for a general account under paragraph (b)(1) of this section:

(i) The EPA will establish a general account for the person or persons for whom the application is submitted.

(ii) The NO_x authorized account representative and any alternate NO_x authorized account representative for the general account shall represent and, by his or her representations, actions, inactions, or submissions, legally bind each person who has an ownership interest with respect to NO_x allowances held in the general account in all matters pertaining to the NO_x Budget Trading Program, notwithstanding any agreement between the NO_x authorized account representative or any alternate NO_x authorized account representative and such person. Any such person shall be bound by any order or decision issued to the NO_x authorized account representative or any alternate NO_x authorized account representative by the EPA or a court regarding the general account.

(iii) Each submission concerning the general account shall be submitted, signed, and certified by the NO_x authorized account representative or any alternate NO_x authorized account representative for the persons having an ownership interest with respect to NO_x allowances held in the general account. Each such submission shall include the following certification statement by the NO_x authorized account representative or any alternate NO_x authorized account representative any: "I am authorized to make this submission on behalf of the persons having an ownership interest with respect to the NO_x allowances held in the general account. I certify under penalty of law that I have personally examined, and am familiar with, the statements and information submitted in this document and all its attachments. Based on my inquiry of those individuals with primary responsibility for obtaining the information, I certify that the statements and information are to the best of my knowledge and belief true, accurate, and complete. I am aware that there are significant penalties for submitting false statements and information or omitting required statements and information, including the possibility of fine or imprisonment."

(iv) The EPA will accept or act on a submission concerning the general account only if the submission has been made, signed, and certified in accordance with paragraph (b)(2)(iii) of this section.

(3) (i) An application for a general account may designate one and only one NO_x authorized account representative and one and only one alternate NO_x authorized account representative who may act on behalf of the NO_x authorized account representative. The agreement by which the alternate NO_x authorized account

representative is selected shall include a procedure for authorizing the alternate NO_x authorized account representative to act in lieu of the NO_x authorized account representative.

(ii) Upon receipt by the EPA of a complete application for a general account under paragraph (b)(1) of this section, any representation, action, inaction, or submission by any alternate NO_x authorized account representative shall be deemed to be a representation, action, inaction, or submission by the NO_x authorized account representative.

(4) (i) The NO_x authorized account representative for a general account may be changed at any time upon receipt by the EPA of a superseding complete application for a general account under paragraph (b)(1) of this section. Notwithstanding any such change, all representations, actions, inactions, and submissions by the previous NO_x authorized account representative prior to the time and date when the EPA receives the superseding application for a general account shall be binding on the new NO_x authorized account representative and the persons with an ownership interest with respect to the allowances in the general account.

(ii) The alternate NO_x authorized account representative for a general account may be changed at any time upon receipt by the EPA of a superseding complete application for a general account under paragraph (b)(1) of this section. Notwithstanding any such change, all representations, actions, inactions, and submissions by the previous alternate NO_x authorized account representative prior to the time and date when the EPA receives the superseding application for a general account shall be binding on the new alternate NO_x authorized account representative and the persons with an ownership interest with respect to the allowances in the general account.

(iii)(A) In the event a new person having an ownership interest with respect to NO_x allowances in the general account is not included in the list of such persons in the account certificate of representation, such new person shall be deemed to be subject to and bound by the account certificate of representation, the representation, actions, inactions, and submissions of the NO_x authorized account representative and any alternate NO_x authorized account representative of the source or unit, and the decisions, orders, actions, and inactions of the EPA, as if the new person were included in such list.

(B) Within 30 days following any change in the persons having an ownership interest with respect to NO_x allowances in the general account, including the addition of persons, the NO_x authorized account representative or any alternate NO_x authorized account representative shall submit a revision to the application for a general account amending the list of persons having an ownership interest with respect to the NO_x allowances in the general account to include the change.

(5) (i) Once a complete application for a general account under paragraph (b)(1) of this section has been submitted and received, the EPA will rely on the application unless and until a superseding complete application for a general account under paragraph (b)(1) of this section is received by the EPA.

(ii) Except as provided in paragraph (b)(4) of this section, no objection or other communication submitted to the EPA concerning the authorization, or any representation, action, inaction, or submission of the NO_x authorized account representative or any alternate NO_x authorized account representative for a general account shall affect any representation, action, inaction, or submission of the NO_x authorized account representative or any alternate NO_x authorized account representative or the finality of any decision or order by the EPA under the NO_x Budget Trading Program.

(iii) The EPA will not adjudicate any private legal dispute concerning the authorization or any representation, action, inaction, or submission of the NO_x authorized account representative or any alternate NO_x authorized account representative for a general account, including private legal disputes concerning the proceeds of NO_x allowance transfers.

(c) Account identification. The EPA will assign a unique identifying number to each account established under paragraph (a) or (b) of this section.

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Section 96.52 NO_x Allowance Tracking System responsibilities of NO_x authorized account representative.

(a) Following the establishment of a NO_x Allowance Tracking System account, all submissions to the EPA pertaining to the account, including, but not limited to, submissions concerning the deduction or transfer of NO_x allowances in the account, shall be made only by the NO_x authorized account representative for the account.

(b) Authorized account representative identification. The EPA will assign a unique identifying number to each NO_x authorized account representative.

Section 96.53 Recordation of NO_x allowance allocations.

(a) The EPA will record the NO_x allowances for 2004 in the NO_x Budget units' compliance accounts and the allocation set-asides, as allocated under subpart E of this regulation. The EPA will also record the NO_x allowances allocated under Section 96.88(a)(1) for each NO_x Budget opt-in source in its compliance account.

(b) Each year, after the EPA has made all deductions from a NO_x Budget unit's compliance account and the overdraft account pursuant to Section 96.54, the EPA will record NO_x allowances, as allocated to the unit under subpart E of this regulation or under Section 96.88(a)(2), in the compliance account for the year after the last year for which allowances were previously allocated to the compliance account. Each year, the EPA will also record NO_x allowances, as allocated under subpart E of this regulation, in the allocation set-aside for the year after the last year for which allowances were previously allocated to an allocation set-aside.

(c) Serial numbers for allocated NO_x allowances. When allocating NO_x allowances to and recording them in an account, the EPA will assign each NO_x allowance a unique identification number that will include digits identifying the year for which the NO_x allowance is allocated.

Section 96.54 Compliance.

(a) NO_x allowance transfer deadline. The NO_x allowances are available to be deducted for compliance with a unit's NO_x Budget emissions limitation for a control period in a given year only if the NO_x allowances:

(1) Were allocated for a control period in a prior year or the same year; and

(2) Are held in the unit's compliance account, or the overdraft account of the source where the unit is located, as of the NO_x allowance transfer deadline for that control period or are transferred into the compliance account or overdraft account by a NO_x allowance transfer correctly submitted for recordation under Section 96.60 by the NO_x allowance transfer deadline for that control period.

(b) Deductions for compliance.

(1) Following the recordation, in accordance with Section 96.61, of NO_x allowance transfers submitted for recordation in the unit's compliance account or the overdraft account of the source where the unit is located by the NO_x allowance transfer deadline for a control period, the EPA will deduct NO_x allowances available under paragraph (a) of this section to cover the unit's NO_x emissions (as determined in accordance with subpart H of this regulation), or to account for actual utilization under Section 96.42(e), for the control period:

(i) From the compliance account; and

(ii) Only if no more NO_x allowances available under paragraph (a) of this section remain in the compliance account, from the overdraft account. In deducting allowances for units at the source from the overdraft account, the EPA will begin with the unit having the compliance account with the lowest NO_x Allowance Tracking System account number and end with the unit having the compliance account with the highest NO_x Allowance Tracking System account number (with account numbers sorted beginning with the left-most character and ending with the right-most character and the letter characters assigned values in alphabetical order and less than all numeric characters).

(2) The EPA will deduct NO_x allowances first under paragraph (b)(1)(i) of this section and then under paragraph (b)(1)(ii) of this section:

(i) Until the number of NO_x allowances deducted for the control period equals the number of tons of NO_x emissions, determined in accordance with subpart H of this regulation, from the unit for the control period for which compliance is being determined, plus the number of NO_x allowances required for deduction to account for actual utilization under Section 96.42(e) for the control period; or

(ii) Until no more NO_x allowances available under paragraph (a) of this section remain in the respective account.

(c) (1) Identification of NO_x allowances by serial number. The NO_x authorized account representative for each compliance account may identify by serial number the NO_x allowances to be deducted from the unit's compliance account under paragraph (b), (d), or (e) of this section. Such identification shall be made in the compliance certification report submitted in accordance with Section 96.30.

(2) First-in, first-out. The EPA will deduct NO_x allowances for a control period from the compliance account, in the absence of an identification or in the case of a partial identification of NO_x allowances by serial number under paragraph (c)(1) of this section, or the overdraft account on a first-in, first-out (FIFO) accounting basis in the following order:

(i) Those NO_x allowances that were allocated for the control period to the unit under subpart E or I of this regulation;

(ii) Those NO_x allowances that were allocated for the control period to any unit and transferred and recorded in the account pursuant to subpart G of this regulation, in order of their date of recordation;

(iii) Those NO_x allowances that were allocated for a prior control period to the unit under subpart E or I of this regulation; and

(iv) Those NO_x allowances that were allocated for a prior control period to any unit and transferred and recorded in the account pursuant to subpart G of this regulation, in order of their date of recordation.

(d) Deductions for excess emissions.

(1) After making the deductions for compliance under paragraph (b) of this section, the EPA will deduct from the unit's compliance account or the overdraft account of the source where the unit is located a number of NO_x allowances, allocated for a control period after the control period in which the unit has excess emissions, equal to three times the number of the unit's excess emissions.

(2) If the compliance account or overdraft account does not contain sufficient NO_x allowances, the EPA will deduct the required number of NO_x allowances, regardless of the control period for which they were allocated, whenever NO_x allowances are recorded in either account.

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(3) Any allowance deduction required under paragraph (d) of this section shall not affect the liability of the owners and operators of the NO_x Budget unit for any fine, penalty, or assessment, or their obligation to comply with any other remedy, for the same violation, as ordered under the CAA or applicable State law. The following guidelines will be followed in assessing fines, penalties or other obligations:

(i) For purposes of determining the number of days of violation, if a NO_x Budget unit has excess emissions for a control period, each day in the control period (153 days) constitutes a day in violation unless the owners and operators of the unit demonstrate that a lesser number of days should be considered.

(ii) Each ton of excess emissions is a separate violation.

(e) Deductions for units sharing a common stack. In the case of units sharing a common stack and having emissions that are not separately monitored or apportioned in accordance with subpart H of this regulation:

(1) The NO_x authorized account representative of the units may identify the percentage of NO_x allowances to be deducted from each such unit's compliance account to cover the unit's share of NO_x emissions from the common stack for a control period. Such identification shall be made in the compliance certification report submitted in accordance with Section 96.30.

(2) Notwithstanding paragraph (b)(2)(i) of this section, the EPA will deduct NO_x allowances for each such unit until the number of NO_x allowances deducted equals the unit's identified percentage (under paragraph (e)(1) of this section) of the number of tons of NO_x emissions, as determined in accordance with subpart H of this regulation, from the common stack for the control period for which compliance is being determined or, if no percentage is identified, an equal percentage for each such unit, plus the number of allowances required for deduction to account for actual utilization under Section 96.42(e) for the control period.

(f) The EPA will record in the appropriate compliance account or overdraft account all deductions from such an account pursuant to paragraphs (b), (d), or (e) of this section.

Section 96.55 Banking.

(a) NO_x allowances may be banked for future use or transfer in a compliance account, an overdraft account, or a general account, as follows:

(1) Any NO_x allowance that is held in a compliance account, an overdraft account, or a general account will remain in such account unless and until the NO_x allowance is deducted or transferred under Section 96.31, Section 96.54, Section 96.56, subpart G of this regulation, or subpart I of this regulation.

(2) The EPA will designate, as a "banked" NO_x allowance, any NO_x allowance that remains in a compliance account, an overdraft account, or a general account after the EPA has made all deductions for a given control period from the compliance account or overdraft account pursuant to Section 96.54 and was allocated for that control period or a control period in a prior year.

(b) Each year starting in 2004, after the EPA has completed the designation of banked NO_x allowances under paragraph (a)(2) of this section and before May 1 of the year, the EPA will determine the extent to which banked NO_x allowances may be used for compliance in the control period for the current year, as follows:

(1) The EPA will determine the total number of banked NO_x allowances held in compliance accounts, overdraft accounts, or general accounts.

(2) If the total number of banked NO_x allowances determined, under paragraph (b)(1) of this section, to be held in compliance accounts, overdraft accounts, or general accounts is less than or equal to 10% of the sum of

the State trading program budgets for the control period for the States in which NO_x Budget units are located, any banked NO_x allowance may be deducted for compliance in accordance with Section 96.54.

(3) If the total number of banked NO_x allowances determined, under paragraph (b)(1) of this section, to be held in compliance accounts, overdraft accounts, or general accounts exceeds 10% of the sum of the State trading program budgets for the control period for the States in which NO_x Budget units are located, any banked allowance may be deducted for compliance in accordance with Section 96.54, except as follows:

(i) The EPA will determine the following ratio: 0.10 multiplied by the sum of the State trading program budgets for the control period for the States in which NO_x Budget units are located and divided by the total number of banked NO_x allowances determined, under paragraph (b)(1) of this section, to be held in compliance accounts, overdraft accounts, or general accounts.

(ii) The EPA will multiply the number of banked NO_x allowances in each compliance account or overdraft account by the ratio determined using the formula specified in paragraph (b)(3)(i). The resulting product is the number of banked NO_x allowances in the account that may be deducted for compliance in accordance with Section 96.54. Any banked NO_x allowances in excess of the resulting product may be deducted for compliance in accordance with Section 96.54, except that, if such NO_x allowances are used to make a deduction, two such NO_x allowances must be deducted for each deduction of one NO_x allowance required under Section 96.54.

(c) Any NO_x Budget unit may reduce its NO_x emission rate in the 2000, 2001, 2002, or 2003, control period, the owner or operator of the unit may request early reduction credits, and the Department may allocate allowances in 2004 to the unit in accordance with the following requirements.

(1) Each NO_x Budget unit for which the owner or operator requests any early reduction credits under paragraph (c)(4) of this section shall monitor NO_x emissions in accordance with subpart H of this regulation. Each budget unit must monitor their emissions during the control period for which early reduction credits are requested and must have monitoring data for at least one control period prior to the control period for which such early reduction credits are requested. The unit's monitoring system availability shall be not less than 90 percent during any control period, and the unit must be in compliance with any applicable State or Federal emissions or emissions-related requirements.

(2) NO_x emission rate and heat input under paragraphs (c)(4) through (5) of this section shall be determined in accordance with subpart H of this regulation.

(3) NO_x allowances allocated for early reduction credits in accordance with this section may be deducted for compliance during the 2004 and 2005 control periods only.

(4) The NO_x authorized account representative of a NO_x Budget unit that meets the requirements of paragraphs (c)(1) of this section may submit to the Department a request for early reduction credits for the unit based on NO_x emission rate reductions made by the unit in the control period for 2000, 2001, 2002, or 2003.

(i) In the early reduction credit request, the NO_x authorized account representative for units under Section 96.4(a)(1) may request early reduction credits for such control period in an amount equal to the unit's heat input for such control period multiplied by the difference between the unit's state and federally approved NO_x permit limit and the unit's NO_x emission rate for such control period, divided by 2000 lb/ton, and rounded to the nearest ton. After the early reduction credits are calculated, the credits shall be discounted for units that do not reduce down to 0.25 lb/mmBtu so that for each ton of NO_x reduction achieved down to but not including 0.25 lb/mmBtu, the unit shall receive one half credit. For units that reduce their NO_x emissions beyond and including 0.25 lb/mmBtu, the credits will not be discounted and the unit shall receive one credit for each ton of NO_x reduction.

(ii) For units under 96.4(a)(2) and for units under 96.4(a)(1) that do not have a state and federally approved NO_x permit limit, the NO_x authorized account representative may request early reduction credits for such control

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period in an amount equal to the unit's heat input for such control period multiplied by the difference between the unit's emission rate in the control period prior to the NO_x emission rate reduction in lb/mmBtu and the unit's NO_x emission rate for such control period, divided by 2000 lb/ton, and rounded to the nearest ton; the difference must reflect only additional reductions to prior existing requirement. After the early reduction credits are calculated, the credits shall be discounted for units that do not reduce down to 0.25 lb/mmBtu so that for each ton of NO_x reduction achieved down to but not including 0.25 lb/mmBtu, the unit shall receive one half credit. For units that reduce their NO_x emissions beyond and including 0.25 lb/mmBtu, the credits will not be discounted and the unit shall receive one credit for each ton of NO_x reduction.

(iii) For units under 96.4(a)(1) that utilize NO_x emissions averaging to demonstrate compliance with the Acid Rain Nitrogen Oxides Emission Reduction Program promulgated under 40 CFR part 76 and average those emissions based on units operating exclusively in the State of South Carolina, the early reduction credit request must be based on the total reductions from all the units participating in the emissions averaging program.

(iv) For reductions that occur during only a portion of the control period, the heat input used to determine the early reduction credits shall be based only on the period of time for which the reductions occurred.

(v) If the sum of the early reduction credit requests from paragraphs (4)(i) and (4)(ii) above, is less than the total NO_x allowances available in the State's compliance supplement pool, the Department shall adjust the discounted credits in paragraphs (4)(i) and (4)(ii) until the sum of the early reduction credit requests equals the amount of NO_x allowances available. However, at no time shall the Department allocate more than one early reduction credit for each ton of NO_x reduced.

(vi) The early reduction credit request must be submitted, in a format specified by the Department, by February 1, 2004.

(5) The Department will allocate NO_x allowances, to NO_x Budget units meeting the requirements of paragraphs (c)(1) of this section in accordance with the following procedures:

(i) Upon receipt of each early reduction credit request, the Department will accept the request only if the requirements of paragraphs (c)(1), (3), and (4) of this section are met and, if the request is accepted, will make any necessary adjustments to the request to ensure that the amount of the early reduction credits requested meets the requirement of paragraphs (c)(2) and (4) of this section.

(ii) If the State's compliance supplement pool has an amount of NO_x allowances not less than the number of early reduction credits in all accepted early reduction credit requests for 2000, 2001, 2002, and 2003 (as adjusted under paragraph (c)(5)(i) of this section) submitted by February 1, 2004, the Department will allocate to each NO_x Budget unit covered by such accepted requests one allowance for each early reduction credit requested (as adjusted under paragraph (c)(5)(i) of this section).

(iii) If the State's compliance supplement pool has a smaller amount of NO_x allowances than the number of early reduction credits in all accepted early reduction credit requests for 2000, 2001, 2002, and 2003 (as adjusted under paragraph (c)(5)(i) of this section) submitted by February 1, 2004, the Department will allocate NO_x allowances to each NO_x Budget unit covered by such accepted requests according to the following formula and rounded to the nearest whole number of NO_x allowances as appropriate:

Unit's allocated early reduction credits = [(Unit's adjusted early reduction credits)/(Total adjusted early reduction credits requested by all units)] x (Available NO_x allowances from the State's compliance supplement pool)

where:

"Unit's adjusted early reduction credits" is the number of early reduction credits for the unit for 2000, 2001, 2002, and 2003, in accepted early reduction credit requests, as adjusted under paragraph (c)(5)(i) of this section.

“Total adjusted early reduction credits requested by all units” is the number of early reduction credits for all units for 2000, 2001, 2002, and 2003, in accepted early reduction credit requests, as adjusted under paragraph (c)(5)(i) of this section.

“Available NO_x allowances from the State’s compliance supplement pool” is the number of NO_x allowances in the State’s compliance supplement pool and available for early reduction credits for 2000, 2001, 2002, and 2003.

(6) After the NO_x allowances have been distributed for early reduction credits, any remaining NO_x allowances in the compliance supplement pool (if any) will be distributed to sources that demonstrate a need for an extension of the May 31, 2004 compliance deadline according to the following provisions:

(i) Applications should be submitted by February 1, 2004.

(ii) The issuance process will be completed no later than May 31, 2004.

(iii) Sources that apply must demonstrate the following:

(A) For a source used to generate electricity, compliance with the State implementation plan’s applicable control measures by May 31, 2004, would create undue risk for the reliability of the electricity supply. This demonstration must include a showing that it would not be feasible to import electricity from other electricity generation systems during the installation of control technologies necessary to comply with the State implementation plan revision.

(B) For a source not used to generate electricity, compliance with the State implementation plan’s applicable control measures by May 31, 2004, would create undue risk for the source or its associated industry to a degree that is comparable to the risk described in paragraph (c)(6)(iii)(A) of this section.

(C) That it was not possible for the source to comply with applicable control measures by generating early reduction credits or acquiring early reduction credits from other sources.

(D) That it was not possible to comply with applicable control measures by acquiring sufficient credit from other sources or persons subject to the emissions trading program.

(iv) The State shall ensure the public an opportunity, through a public hearing process, to comment on the appropriateness of allocating compliance supplement pool credits to a source under paragraph(c)(6) of this section.

(v) NO_x allocations (if any) that remain in the compliance supplement pool after distributions are completed for sources with qualifying early reduction credits will be distributed to sources that meet the provisions described in paragraph (c)(6) of this section in accordance with the following procedures:

(A) If the State’s compliance supplement pool has an amount of NO_x allowances not less than the number of credits in all accepted credit requests for 2000, 2001, 2002 and 2003 submitted by February 1, 2004, the Department will allocate to each NO_x Budget unit covered by such accepted requests one allowance for each credit requested.

(B) If the State’s compliance supplement pool has a smaller amount of NO_x allowances than the number of credits in all accepted credit requests for 2000, 2001, 2002, and 2003, submitted by February 1, 2004, the Department will allocate NO_x allowances to each NO_x Budget unit covered by such accepted requests according to the following formula and rounded to the nearest whole number of NO_x allowances as appropriate:

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Unit's allocated credits = [(Unit's adjusted credits)/(Total adjusted credits requested by all units)] x (Available NO_x allowances from the State's compliance supplement pool)

where:

"Unit's adjusted credits" is the number of credits for the unit for 2000, 2001, 2002, and 2003, in accepted credit requests.

"Total adjusted credits requested by all units" is the number of credits for all units for 2000, 2001, 2002, and 2003, in accepted credit requests.

"Available NO_x allowances from the State's compliance supplement pool" is the number of NO_x allowances in the State's compliance supplement pool and available for credits for 2000, 2001, 2002, and 2003.

(7) By May 31, 2004, the Department will submit to the EPA the allocations of NO_x allowances determined under paragraph (c)(5) and (c)(6) of this section. The EPA will record such allocations to the extent that they are consistent with the requirements of paragraphs (c)(1) through (6) of this section.

(8) NO_x allowances recorded under paragraph (c)(7) of this section may be deducted for compliance under Section 96.54 for the control periods in 2004 or 2005. Notwithstanding paragraph (a) of this section, the EPA will deduct as retired any NO_x allowance that is recorded under paragraph (c)(7) of this section and is not deducted for compliance in accordance with Section 96.54 for the control period in 2004 or 2005.

(9) NO_x allowances recorded under paragraph (c)(7) of this section are treated as banked allowances in 2005 for the purposes of paragraphs (a) and (b) of this section.

Section 96.56 Account error.

The EPA may correct any error in any NO_x Allowance Tracking System account. Within 10 business days of making such correction, the EPA will notify the NO_x authorized account representative for the account.

Section 96.57 Closing of general accounts.

(a) The NO_x authorized account representative of a general account may instruct the EPA to close the account by submitting a statement requesting deletion of the account from the NO_x Allowance Tracking System and by correctly submitting for recordation under Section 96.60 an allowance transfer of all NO_x allowances in the account to one or more other NO_x Allowance Tracking System accounts.

(b) If a general account shows no activity for a period of a year or more and does not contain any NO_x allowances, the EPA may notify the NO_x authorized account representative for the account that the account will be closed and deleted from the NO_x Allowance Tracking System following 20 business days after the notice is sent. The account will be closed after the 20-day period unless before the end of the 20-day period the EPA receives a correctly submitted transfer of NO_x allowances into the account under Section 96.60 or a statement submitted by the NO_x authorized account representative demonstrating to the satisfaction of the EPA good cause as to why the account should not be closed.

Subpart G - NO_x Allowance Transfers

Section 96.60 Submission of NO_x allowance transfers.

The NO_x authorized account representatives seeking recordation of a NO_x allowance transfer shall submit the transfer to the EPA. To be considered correctly submitted, the NO_x allowance transfer shall include the following elements in a format specified by the EPA:

- (a) The numbers identifying both the transferor and transferee accounts;
- (b) A specification by serial number of each NO_x allowance to be transferred; and
- (c) The printed name and signature of the NO_x authorized account representative of the transferor account and the date signed.

Section 96.61 EPA recordation.

(a) Within 5 business days of receiving a NO_x allowance transfer, except as provided in paragraph (b) of this section, the EPA will record a NO_x allowance transfer by moving each NO_x allowance from the transferor account to the transferee account as specified by the request, provided that:

- (1) The transfer is correctly submitted under Section 96.60;
- (2) The transferor account includes each NO_x allowance identified by serial number in the transfer; and
- (3) The transfer meets all other requirements of this regulation.

(b) A NO_x allowance transfer that is submitted for recordation following the NO_x allowance transfer deadline and that includes any NO_x allowances allocated for a control period prior to or the same as the control period to which the NO_x allowance transfer deadline applies will not be recorded until after completion of the process of recordation of NO_x allowance allocations in Section 96.53(b).

(c) Where a NO_x allowance transfer submitted for recordation fails to meet the requirements of paragraph (a) of this section, the EPA will not record such transfer.

Section 96.62 Notification.

(a) Notification of recordation. Within 5 business days of recordation of a NO_x allowance transfer under Section 96.61, the EPA will notify each party to the transfer. Notice will be given to the NO_x authorized account representatives of both the transferor and transferee accounts.

(b) Notification of non-recordation. Within 10 business days of receipt of a NO_x allowance transfer that fails to meet the requirements of Section 96.61(a), the EPA will notify the NO_x authorized account representatives of both accounts subject to the transfer of:

- (1) A decision not to record the transfer, and
- (2) The reasons for such non-recordation.

(c) Nothing in this section shall preclude the submission of a NO_x allowance transfer for recordation following notification of non-recordation.

Subpart H - Monitoring and Reporting

Section 96.70 General Requirements.

The owners and operators, and to the extent applicable, the NO_x authorized account representative of a NO_x Budget unit, shall comply with the monitoring and reporting requirements as provided in this subpart and in subpart H of 40 CFR part 75. For purposes of complying with such requirements, the definitions in Section 96.2 and in 40 CFR part 72 section 72.2 shall apply, and the terms “affected unit,” “designated representative,” and

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“continuous emission monitoring system” (or “CEMS”) in 40 CFR part 75 shall be replaced by the terms “NO_x Budget unit,” “NO_x authorized account representative,” and “continuous emission monitoring system” (or “CEMS”), respectively, as defined in Section 96.2.

(a) Requirements for installation, certification, and data accounting.

The owner or operator of each NO_x Budget unit must meet the following requirements. These provisions also apply to a unit for which an application for a NO_x Budget opt-in permit is submitted and not denied or withdrawn, as provided in subpart I of this regulation:

(1) Install all monitoring systems required under this subpart for monitoring NO_x mass. This includes all systems required to monitor NO_x emission rate, NO_x concentration, heat input, and flow, in accordance with 40 CFR parts 75 sections 75.72 and 75.76.

(2) Install all monitoring systems for monitoring heat input, if required under Section 96.76 for developing NO_x allowance allocations.

(3) Successfully complete all certification tests required under Section 96.71 and meet all other provisions of this subpart and 40 CFR part 75 applicable to the monitoring systems under paragraphs (a)(1) and (2) of this section.

(4) Record, and report data from the monitoring systems under paragraphs (a)(1) and (2) of this section.

(b) Compliance dates.

The owner or operator must meet the requirements of paragraphs (a)(1) through (a)(3) of this section on or before the following dates and must record and report data on and after the following dates:

(1) NO_x Budget units for which the owner or operator intends to apply for early reduction credits under Section 96.55(d) must comply with the requirements of this subpart by May 1, 2003 or if early reduction credits are being requested before this date than in the control period prior to the one for which the early reduction credits are requested.

(2) Except for NO_x Budget units under paragraph (b) (1) of this section, NO_x Budget units under Section 96.4 that commence operation before January 1, 2002, must comply with the requirements of this subpart by May 1, 2003.

(3) NO_x Budget units under Section 96.4 that commence operation on or after January 1, 2002 and that report on an annual basis under Section 96.74(d) must comply with the requirements of this subpart by the later of the following dates:

(i) May 1, 2003; or

(ii) the earlier of:

(A) 180 days after the date on which the unit commences operation or,

(B) For units under Section 96.4(a)(1), 90 days after the date on which the unit commences commercial operation.

(4) NO_x Budget units under Section 96.4 that commence operation on or after January 1, 2003 and that report on a control season basis under Section 96.74(d) must comply with the requirements of this subpart by the later of the following dates:

(i) the earlier of:

(A) 180 days after the date on which the unit commences operation or,

(B) for units under Section 96.4(a)(1), 90 days after the date on which the unit commences commercial operation.

(ii) However, if the applicable deadline under paragraph (b)(4)(i) section does not occur during a control period, then the unit must comply by May 1, of the year immediately following the date determined in accordance with paragraph (b)(4)(i) of this section.

(5) For a NO_x Budget unit with a new stack or flue for which construction is completed after the applicable deadline under paragraph (b)(1), (b)(2) or (b)(3) of this section or subpart I of this regulation:

(i) 90 days after the date on which emissions first exit to the atmosphere through the new stack or flue

(ii) However, if the unit reports on a control season basis under Section 96.74(d) and the applicable deadline under paragraph (b)(5)(i) of this section does not occur during the control period, then the unit must comply by May 1, of the year immediately following the applicable deadline in paragraph (b)(5)(i) of this section.

(6) For a unit for which an application for a NO_x Budget opt in permit is submitted and not denied or withdrawn, the compliance dates specified under subpart I of this regulation.

(c) Reporting data prior to initial certification.

(1) The owner or operator of a NO_x Budget unit that misses the certification deadline under paragraph (b)(1) of this section is not eligible to apply for early reduction credits. The owner or operator of the unit becomes subject to the certification deadline under paragraph (b)(2) of this section.

(2) The owner or operator of a NO_x Budget under paragraphs (b)(3) or (b)(4) of this section must determine, record and report NO_x mass, heat input (if required for purposes of allocations) and any other values required to determine NO_x Mass (e.g. NO_x emission rate and heat input or NO_x concentration and stack flow) using the provisions of Section 75.70(g) of 40 CFR part 75, from the date and hour that the unit starts operating until the date and hour on which the continuous emission monitoring system, excepted monitoring system under appendix D or E of 40 CFR part 75, or excepted monitoring methodology under Section 75.19 of 40 CFR part 75 is provisionally certified.

(d) Prohibitions.

(1) No owner or operator of a NO_x Budget unit or a non-NO_x Budget unit monitored under Section 75.72(b)(2)(ii) of 40 CFR part 75 shall use any alternative monitoring system, alternative reference method, or any other alternative for the required continuous emission monitoring system without having obtained prior written approval in accordance with Section 96.75.

(2) No owner or operator of a NO_x Budget unit or a non-NO_x Budget unit monitored under Section 75.72(b)(2)(ii) of 40 CFR part 75 shall operate the unit so as to discharge, or allow to be discharged, NO_x emissions to the atmosphere without accounting for all such emissions in accordance with the applicable provisions of this subpart and 40 CFR part 75 except as provided for in Section 75.74.

(3) No owner or operator of a NO_x Budget unit or a non-NO_x Budget unit monitored under Section 75.72(b)(2)(ii) of 40 CFR part 75 shall disrupt the continuous emission monitoring system, any portion thereof, or any other approved emission monitoring method, and thereby avoid monitoring and recording NO_x mass

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emissions discharged into the atmosphere, except for periods of recertification or periods when calibration, quality assurance testing, or maintenance is performed in accordance with the applicable provisions of this subpart and 40 CFR part 75 except as provided for in Section 75.74.

(4) No owner or operator of a NO_x Budget units or a non-NO_x Budget unit monitored under Section 75.72(b)(2)(ii) of 40 CFR part 75 shall retire or permanently discontinue use of the continuous emission monitoring system, any component thereof, or any other approved emission monitoring system under this subpart, except under any one of the following circumstances:

(i) During the period that the unit is covered by a retired unit exemption under Section 96.5 that is in effect;

(ii) The owner or operator is monitoring emissions from the unit with another certified monitoring system approved, in accordance with the applicable provisions of this subpart and 40 CFR part 75, by the Department for use at that unit that provides emission data for the same pollutant or parameter as the retired or discontinued monitoring system; or

(iii) The NO_x authorized account representative submits notification of the date of certification testing of a replacement monitoring system in accordance with Section 96.71(b)(2).

Section 96.71 Initial certification and recertification procedures

(a) The owner or operator of a NO_x Budget unit that is subject to an Acid Rain emissions limitation shall comply with the initial certification and recertification procedures of 40 CFR part 75, except that:

(1) If, prior to January 1, 1998, the EPA approved a petition under Section 75.17(a) or (b) of 40 CFR part 75 for apportioning the NO_x emission rate measured in a common stack or a petition under Section 75.66 of 40 CFR part 75 for an alternative to a requirement in Section 75.17 of 40 CFR part 75, the NO_x authorized account representative shall resubmit the petition to the EPA under Section 96.75(a) to determine if the approval applies under the NO_x Budget Trading Program.

(2) For any additional CEMS required under the common stack provisions in Section 75.72 of 40 CFR part 75, or for any NO_x concentration CEMS used under the provisions of Section 75.71(a)(2) of 40 CFR part 75, the owner or operator shall meet the requirements of paragraph (b) of this section.

(b) The owner or operator of a NO_x Budget unit that is not subject to an Acid Rain emissions limitation shall comply with the following initial certification and recertification procedures, except that the owner or operator of a unit that qualifies to use the low mass emissions excepted monitoring methodology under Section 75.19 of 40 CFR part 75 shall also meet the requirements of paragraph (c) of this section and the owner or operator of a unit that qualifies to use an alternative monitoring system under subpart E of 40 CFR part 75 shall also meet the requirements of paragraph (d) of this section. The owner or operator of a NO_x Budget unit that is subject to an Acid Rain emissions limitation, but requires additional CEMS under the common stack provisions in Section 75.72 of 40 CFR part 75, or that uses a NO_x concentration CEMS under Section 75.71(a)(2) of 40 CFR part 75 also shall comply with the following initial certification and recertification procedures.

(1) Requirements for initial certification.

The owner or operator shall ensure that each monitoring system required by subpart H of 40 CFR part 75-(which includes the automated data acquisition and handling system) successfully completes all of the initial certification testing required under Section 75.20 of 40 CFR part 75. The owner or operator shall ensure that all applicable certification tests are successfully completed by the deadlines specified in Section 96.70(b). In addition, whenever the owner or operator installs a monitoring system in order to meet the requirements of this regulation in a location

where no such monitoring system was previously installed, initial certification according to Section 75.20 of 40 CFR part 75 is required.

(2) Requirements for recertification.

Whenever the owner or operator makes a replacement, modification, or change in a certified monitoring system that may significantly affect the ability of the system to accurately measure or record NO_x mass emissions or heat input or to meet the requirements of Section 75.21 or appendix B to 40 CFR part 75, the owner or operator shall recertify the monitoring system according to Section 75.20(b) of 40 CFR part 75. Furthermore, whenever the owner or operator makes a replacement, modification, or change to the flue gas handling system or the unit's operation that may significantly change the flow or concentration profile, the owner or operator shall recertify the continuous emissions monitoring system according to Section 75.20(b) of 40 CFR part 75. Examples of changes which require recertification include: replacement of the analyzer, complete replacement of an existing continuous emission monitoring system, or change in location or orientation of the sampling probe or site.

(3) Certification approval process for initial certifications and recertification.

(i) Notification of certification. The NO_x authorized account representative shall submit to the Department and to the appropriate EPA Regional Office a written notice of the dates of certification in accordance with Section 96.73.

(ii) Certification application. The NO_x authorized account representative shall submit to the Department a certification application for each monitoring system required under subpart H of 40 CFR part 75. A complete certification application shall include the information specified in subpart H of 40 CFR part 75.

(iii) Except for units using the low mass emission excepted methodology under Section 75.19 of 40 CFR part 75, the provisional certification date for a monitor shall be determined using the procedures set forth in Section 75.20(a)(3) of 40 CFR part 75. A provisionally certified monitor may be used under the NO_x Budget Trading Program for a period not to exceed 120 days after receipt by the Department of the complete certification application for the monitoring system or component thereof under paragraph (b)(3)(ii) of this section. Data measured and recorded by the provisionally certified monitoring system or component thereof, in accordance with the requirements of 40 CFR part 75, will be considered valid quality-assured data (retroactive to the date and time of provisional certification), provided that the Department does not invalidate the provisional certification by issuing a notice of disapproval within 120 days of receipt of the complete certification application by the Department.

(iv) Certification application formal approval process. The Department will issue a written notice of approval or disapproval of the certification application to the owner or operator within 120 days of receipt of the complete certification application under paragraph (b)(3)(ii) of this section. In the event the Department does not issue such a notice within such 120-day period, each monitoring system which meets the applicable performance requirements of 40 CFR part 75 and is included in the certification application will be deemed certified for use under the NO_x Budget Trading Program.

(A) Approval notice. If the certification application is complete and shows that each monitoring system meets the applicable performance requirements of 40 CFR part 75, then the Department will issue a written notice of approval of the certification application within 120 days of receipt.

(B) Incomplete application notice. A certification application will be considered complete when all of the applicable information required to be submitted under paragraph (b)(3)(ii) of this section has been received by the Department. If the certification application is not complete, then the Department will issue a written notice of incompleteness that sets a reasonable date by which the NO_x authorized account representative must submit the additional information required to complete the certification application. If the NO_x authorized account

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representative does not comply with the notice of incompleteness by the specified date, then the Department may issue a notice of disapproval under paragraph (b)(3)(iv)(C) of this section.

(C) Disapproval notice. If the certification application shows that any monitoring system or component thereof does not meet the performance requirements of this regulation, or if the certification application is incomplete and the requirement for disapproval under paragraph (b)(3)(iv)(B) of this section has been met, the Department will issue a written notice of disapproval of the certification application. Upon issuance of such notice of disapproval, the provisional certification is invalidated by the Department and the data measured and recorded by each uncertified monitoring system or component thereof shall not be considered valid quality-assured data beginning with the date and hour of provisional certification. The owner or operator shall follow the procedures for loss of certification in paragraph (b)(3)(v) of this section for each monitoring system or component thereof which is disapproved for initial certification.

(D) Audit decertification. The Department may issue a notice of disapproval of the certification status of a monitor in accordance with Section 96.72(b).

(v) Procedures for loss of certification. If the Department issues a notice of disapproval of a certification application under paragraph (b)(3)(iv)(C) of this section or a notice of disapproval of certification status under paragraph (b)(3)(iv)(D) of this section, then:

(A) The owner or operator shall substitute the following values, for each hour of unit operation during the period of invalid data specified under Section 75.20 (a)(4)(iii), Section 75.20(b)(5), Section 75.20(h)(4), or Section 75.21(e) and continuing until the date and hour specified under Section 75.20(a)(5)(i) of 40 CFR part 75:

(1) For units using or intending to monitor for NO_x emission rate and heat input or for units using the low mass emission excepted methodology under Section 75.19 of 40 CFR part 75, the maximum potential NO_x emission rate and the maximum potential hourly heat input of the unit.

(2) For units intending to monitor for NO_x mass emissions using a NO_x pollutant concentration monitor and a flow monitor, the maximum potential concentration of NO_x and the maximum potential flow rate of the unit under Section 2.1 of appendix A of 40 CFR part 75;

(B) The NO_x authorized account representative shall submit a notification of certification retest dates and a new certification application in accordance with paragraphs (b)(3)(i) and (ii) of this section; and

(C) The owner or operator shall repeat all certification tests or other requirements that were failed by the monitoring system, as indicated in the Department's notice of disapproval, no later than 30 unit operating days after the date of issuance of the notice of disapproval.

(c) Initial certification and recertification procedures for low mass emission units using the excepted methodologies under Section 75.19 of 40 CFR Part 75. The owner or operator of a gas-fired or oil-fired unit using the low mass emissions excepted methodology under Section 75.19 of 40 CFR part 75 and not subject to an Acid Rain emissions limitation shall meet the applicable general operating requirements of Section 75.10 of 40 CFR part 75 and the applicable requirements of Section 75.19 of 40 CFR part 75. The owner or operator of such a unit shall also meet the applicable certification and recertification procedures of paragraph (b) of this section, except that the excepted methodology shall be deemed provisionally certified for use under the NO_x Budget Trading Program as of the following dates:

(1) For a unit that does not have monitoring equipment initially certified or recertified for the NO_x Budget Trading Program as of the date on which the NO_x authorized account representative submits the certification application under Section 75.19 of 40 CFR part 75 for the unit, starting on the date of such submission until the completion of the period for the Department's review.

(2) For a unit that has monitoring equipment initially certified or recertified for the NO_x Budget Trading Program as of the date on which the NO_x authorized account representative submits the certification application under Section 75.19 of 40 CFR part 75 for the unit and that reports data on an annual basis under Section 96.74(d), starting January 1 of the year after the year of such submission until the completion of the period for the Department's review.

(3) For a unit that has monitoring equipment initially certified or recertified for the NO_x Budget Trading Program as of the date on which the NO_x Authorized Account Representative submits the certification application under Section 75.19 of 40 CFR part 75 for the unit and that reports on a control season basis under Section 96.74(d), starting May 1 of the control period after the year of such submission until the completion of the period for the Department's review.

(d) Certification/recertification procedures for alternative monitoring systems. The NO_x authorized account representative representing the owner or operator of each unit applying to monitor using an alternative monitoring system approved by the EPA and, if applicable, the Department under subpart E of 40 CFR part 75 shall apply for certification to the Department prior to use of the system under the NO_x Trading Program. The NO_x authorized account representative shall apply for recertification following a replacement, modification or change according to the procedures in paragraph (b) of this section. The owner or operator of an alternative monitoring system shall comply with the notification and application requirements for certification according to the procedures specified in paragraph (b)(3) of this section and Section 75.20(f) of 40 CFR part 75.

Section 96.72 Out of control periods.

(a) Whenever any monitoring system fails to meet the quality assurance requirements of appendix B of 40 CFR part 75, data shall be substituted using the applicable procedures in subpart D, appendix D, or appendix E of 40 CFR part 75.

(b) Audit decertification. Whenever both an audit of a monitoring system and a review of the initial certification or recertification application reveal that any system or component should not have been certified or recertified because it did not meet a particular performance specification or other requirement under Section 96.71 or the applicable provisions of 40 CFR part 75, both at the time of the initial certification or recertification application submission and at the time of the audit, the Department will issue a notice of disapproval of the certification status of such system or component. For the purposes of this paragraph, an audit shall be either a field audit or an audit of any information submitted to the Department or the EPA. By issuing the notice of disapproval, the Department revokes prospectively the certification status of the system or component. The data measured and recorded by the system or component shall not be considered valid quality-assured data from the date of issuance of the notification of the revoked certification status until the date and time that the owner or operator completes subsequently approved initial certification or recertification tests. The owner or operator shall follow the initial certification or recertification procedures in Section 96.71 for each disapproved system.

Section 96.73 Notifications.

The NO_x authorized account representative for a NO_x Budget unit shall submit written notice to the Department and the EPA in accordance with Section 75.61 of 40 CFR part 75, except that if the unit is not subject to an Acid Rain emissions limitation, the notification is only required to be sent to the Department.

Section 96.74 Recordkeeping and reporting.

(a) General provisions

(1) The NO_x authorized account representative shall comply with all recordkeeping and reporting requirements in this section and with the requirements of Section 96.10(e).

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(2) If the NO_x authorized account representative for a NO_x Budget unit subject to an Acid Rain Emission limitation who signed and certified any submission that is made under subpart F or G of 40 CFR part 75 and which includes data and information required under this subpart or subpart H of 40 CFR part 75 is not the same person as the designated representative or the alternative designated representative for the unit under 40 CFR part 72, the submission must also be signed by the designated representative or the alternative designated representative.

(b) Monitoring Plans.

(1) The owner or operator of a unit subject to an Acid Rain emissions limitation shall comply with requirements of Section 75.62 of 40 CFR part 75, except that the monitoring plan shall also include all of the information required by subpart H of 40 CFR part 75.

(2) The owner or operator of a unit that is not subject to an Acid Rain emissions limitation shall comply with requirements of Section 75.62 of 40 CFR part 75, except that the monitoring plan is only required to include the information required by subpart H of 40 CFR part 75.

(c) Certification Applications. The NO_x authorized account representative shall submit an application to the Department within 45 days after completing all initial certification or recertification tests required under Section 96.71 including the information required under subpart H of 40 CFR part 75.

(d) Quarterly reports. The NO_x authorized account representative shall submit quarterly reports, as follows:

(1) If a unit is subject to an Acid Rain emission limitation or if the owner or operator of the NO_x budget unit chooses to meet the annual reporting requirements of this subpart H, the NO_x authorized account representative shall submit a quarterly report for each calendar quarter beginning with:

(i) For units that elect to comply with the early reduction credit provisions under Section 96.55 of this regulation, the calendar quarter that includes the date of initial provisional certification under Section 96.71(b)(3)(iii). Data shall be reported from the date and hour corresponding to the date and hour of provisional certification ; or

(ii) For units commencing operation prior to May 1, 2003 that are not required to certify monitors by May 1, 2003 under Section 96.70(b)(1), the earlier of the calendar quarter that includes the date of initial provisional certification under Section 96.71(b)(3)(iii) or Section 96.71(c) or, if the certification tests are not completed by May 1, 2003, the partial calendar quarter from May 1, 2003 through June 30, 2003. Data shall be recorded and reported from the earlier of the date and hour corresponding to the date and hour of provisional certification or the first hour on May 1, 2003; or

(iii) For a unit that commences operation after May 1, 2003, the calendar quarter in which the unit commences operation. Data shall be reported from the date and hour corresponding to when the unit commenced operation.

(2) If a NO_x budget unit is not subject to an Acid Rain emission limitation, then the NO_x authorized account representative shall either:

(i) Meet all of the requirements of 40 CFR part 75 related to monitoring and reporting NO_x mass emissions during the entire year and meet the reporting deadlines specified in paragraph (d)(1) of this section; or

(ii) submit quarterly reports only for the periods from the earlier of May 1 or the date and hour that the owner or operator successfully completes all of the recertification tests required under Section 75.74(d)(3) through September 30 of each year in accordance with the provisions of Section 75.74(c)(6) of 40 CFR part 75. The NO_x authorized account representative shall submit a quarterly report for each calendar quarter, beginning with:

(A) For units that elect to comply with the early reduction credit provisions under Section 96.55, the calendar quarter that includes the date of initial provisional certification under Section 96.71(b)(3)(iii) or 96.71(c). Data shall be reported from the date and hour corresponding to the date and hour of provisional certification; or

(B) For units commencing operation prior to May 1, 2003 that are not required to certify monitors by May 1, 2003 under Section 96.70(b)(1), the earlier of the calendar quarter that includes the date of initial provisional certification under Section 96.71(b)(3)(iii), or if the certification tests are not completed by May 1, 2003, the partial calendar quarter from May 1, 2003 through June 30, 2003. Data shall be reported from the earlier of the date and hour corresponding to the date and hour of provisional certification or the first hour of May 1, 2003; or

(C) For units that commence operation after May 1, 2003 during the control period, the calendar quarter in which the unit commences operation. Data shall be reported from the date and hour corresponding to when the unit commenced operation; or

(D) For units that commence operation after May 1, 2003 and before May 1 of the year in which the unit commences operation, the earlier of the calendar quarter that includes the date of initial provisional certification under Section 96.71(b)(3)(iii) or, if the certification tests are not completed by May 1 of the year in which the unit commences operation, May 1 of the year in which the unit commences operation. Data shall be reported from the earlier of the date and hour corresponding to the date and hour of provisional certification or the first hour of May 1 of the year after the unit commences operation.

(E) For units that commence operation after May 1, 2003 and after September 30 of the year in which the unit commences operation, the earlier of the calendar quarter that includes the date of initial provisional certification under Section 96.71(b)(3)(iii) or, if the certification tests are not completed by May 1 of the year after the unit commences operation, May 1 of the year after the unit commences operation. Data shall be reported from the earlier of the date and hour corresponding to the date and hour of provisional certification or the first hour of May 1 of the year after the unit commences operation.

(3) The NO_x authorized account representative shall submit each quarterly report to the EPA within 30 days following the end of the calendar quarter covered by the report. Quarterly reports shall be submitted in the manner specified in subpart H of 40 CFR part 75 and Section 75.64 of 40 CFR part 75.

(i) For units subject to an Acid Rain Emissions limitation, quarterly reports shall include all of the data and information required in subpart H of 40 CFR part 75 for each NO_x Budget unit (or group of units using a common stack) as well as information required in subpart G of 40 CFR part 75.

(ii) For units not subject to an Acid Rain Emissions limitation, quarterly reports are only required to include all of the data and information required in subpart H of 40 CFR part 75 for each NO_x Budget unit (or group of units using a common stack).

(4) Compliance certification. The NO_x authorized account representative shall submit to the EPA a compliance certification in support of each quarterly report based on reasonable inquiry of those persons with primary responsibility for ensuring that all of the unit's emissions are correctly and fully monitored. The certification shall state that:

(i) The monitoring data submitted were recorded in accordance with the applicable requirements of this subpart and 40 CFR part 75, including the quality assurance procedures and specifications; and

(ii) For a unit with add-on NO_x emission controls and for all hours where data are substituted in accordance with Section 75.34(a)(1) of 40 CFR part 75, the add-on emission controls were operating within the range of

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parameters listed in the monitoring plan and the substitute values do not systematically underestimate NO_x emissions; and

(iii) For a unit that is reporting on a control period basis under Section 96.74(d) the NO_x emission rate and NO_x concentration values substituted for missing data under subpart D of 40 CFR part 75 are calculated using only values from a control period and do not systematically underestimate NO_x emissions.

Section 96.75 Petitions

(a) The NO_x authorized account representative of a NO_x Budget unit that is subject to an Acid Rain emissions limitation may submit a petition under Section 75.66 of 40 CFR part 75 to the EPA requesting approval to apply an alternative to any requirement of this subpart.

(1) Application of an alternative to any requirement of this subpart is in accordance with this subpart only to the extent that the petition is approved by the EPA, in consultation with the Department.

(2) Notwithstanding paragraph (a)(1) of this section, if the petition requests approval to apply an alternative to a requirement concerning any additional CEMS required under the common stack provisions of Section 75.72 of 40 CFR part 75, the petition is governed by paragraph (b) of this section.

(b) The NO_x authorized account representative of a NO_x Budget unit that is not subject to an Acid Rain emissions limitation may submit a petition under Section 75.66 of 40 CFR part 75 to the Department and the EPA requesting approval to apply an alternative to any requirement of this subpart.

(1) The NO_x authorized account representative of a NO_x Budget unit that is subject to an Acid Rain emissions limitation may submit a petition under Section 75.66 of 40 CFR part 75 to the Department and the EPA requesting approval to apply an alternative to a requirement concerning any additional CEMS required under the common stack provisions of Section 75.72 of 40 CFR part 75 or a NO_x concentration CEMS used under 75.71(a)(2) of 40 CFR part 75.

(2) Application of an alternative to any requirement of this subpart is in accordance with this subpart only to the extent the petition under paragraph (b) of this section is approved by both the Department and the EPA.

Section 96.76 Additional Requirements to Provide Heat Input Data

(a) The owner or operator of a unit that elects to monitor and report NO_x Mass emissions using a NO_x concentration system and a flow system shall also monitor and report heat input at the unit level using the procedures set forth in 40 CFR part 75 for any source located in a state developing source allocations based upon heat input.

(b) The owner or operator of a unit that monitor and report NO_x Mass emissions using a NO_x concentration system and a flow system shall also monitor and report heat input at the unit level using the procedures set forth in 40 CFR part 75 for any source that is applying for early reduction credits under Section 96.55.

Subpart I - Individual Opt-ins.

Section 96.80 Applicability.

A unit that is in the State, is not a NO_x Budget unit under Section 96.4, vents all of its emissions to a stack, and is operating, may qualify, under this subpart, to become a NO_x Budget opt-in source. A unit that is a NO_x Budget unit, is covered by a retired unit exemption under Section 96.5 that is in effect, or is not operating is not eligible to become a NO_x Budget opt-in source.

Section 96.81 General.

Except otherwise as provided in this regulation, a NO_x Budget opt-in source shall be treated as a NO_x Budget unit for purposes of applying subparts A through H of this regulation.

Section 96.82 NO_x authorized account representative.

A unit for which an application for a NO_x Budget opt-in permit is submitted and not denied or withdrawn, or a NO_x Budget opt-in source, located at the same source as one or more NO_x Budget units, shall have the same NO_x authorized account representative as such NO_x Budget units.

Section 96.83 Applying for NO_x Budget opt-in permit.

(a) Applying for initial NO_x Budget opt-in permit. In order to apply for an initial NO_x Budget opt-in permit, the NO_x authorized account representative of a unit qualified under Section 96.80 may submit to the Department at any time, except as provided under Section 96.86(g):

- (1) A complete NO_x Budget permit application under Section 96.22;
- (2) A monitoring plan submitted in accordance with subpart H of this regulation; and

(3) A complete account certificate of representation under Section 96.13, if no NO_x authorized account representative has been previously designated for the unit.

(b) Duty to reapply. The NO_x authorized account representative of a NO_x Budget opt-in source shall submit a complete NO_x Budget permit application under Section 96.22 to renew the NO_x Budget opt-in permit in accordance with Section 96.21(c) and, if applicable, an updated monitoring plan in accordance with subpart H of this regulation.

Section 96.84 Opt-in process.

The Department will issue or deny a NO_x Budget opt-in permit for a unit for which an initial application for a NO_x Budget opt-in permit under Section 96.83 is submitted, in accordance with Section 96.20 and the following:

(a) Interim review of monitoring plan. The Department will determine, on an interim basis, the sufficiency of the monitoring plan accompanying the initial application for a NO_x Budget opt-in permit under Section 96.83. A monitoring plan is sufficient, for purposes of interim review, if the plan appears to contain information demonstrating that the NO_x emissions rate and heat input of the unit are monitored and reported in accordance with subpart H of this regulation. A determination of sufficiency shall not be construed as acceptance or approval of the unit's monitoring plan.

(b) If the Department determines that the unit's monitoring plan is sufficient under paragraph (a) of this section and after completion of monitoring system certification under subpart H of this regulation, the NO_x emissions rate and the heat input of the unit shall be monitored and reported in accordance with subpart H of this regulation for one full control period during which monitoring system availability is not less than 90 percent and during which the unit is in full compliance with any applicable State or Federal emissions or emissions-related requirements. Solely for purposes of applying the requirements in the prior sentence, the unit shall be treated as a "NO_x Budget unit" prior to issuance of a NO_x Budget opt-in permit covering the unit.

(c) Based on the information monitored and reported under paragraph (b) of this section, the unit's baseline heat rate shall be calculated as the unit's total heat input (in mmBtu) for the control period and the unit's baseline NO_x emissions rate shall be calculated as the unit's total NO_x mass emissions (in lb) for the control period divided by the unit's baseline heat rate.

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(d) After calculating the baseline heat input and the baseline NO_x emissions rate for the unit under paragraph (c) of this section, the Department will serve a draft NO_x Budget opt-in permit on the NO_x authorized account representative of the unit.

(e) Confirmation of intention to opt-in. Within 20 days after the issuance of the draft NO_x Budget opt-in permit, the NO_x authorized account representative of the unit must submit to the Department a confirmation of the intention to opt in the unit or a withdrawal of the application for a NO_x Budget opt-in permit under Section 96.83. The Department will treat the failure to make a timely submission as a withdrawal of the NO_x Budget opt-in permit application.

(f) Issuance of draft NO_x Budget opt-in permit. If the NO_x authorized account representative confirms the intention to opt in the unit under paragraph (e) of this section, the Department will issue the draft NO_x Budget opt-in permit in accordance with Section 96.20.

(g) Notwithstanding paragraphs (a) through (f) of this section, if at any time before issuance of a draft NO_x Budget opt-in permit for the unit, the Department determines that the unit does not qualify as a NO_x Budget opt-in source under Section 96.80, the Department will issue a draft denial of a NO_x Budget opt-in permit for the unit in accordance with Section 96.20.

(h) Withdrawal of application for NO_x Budget opt-in permit. A NO_x authorized account representative of a unit may withdraw its application for a NO_x Budget opt-in permit under Section 96.83 at any time prior to the issuance of the final NO_x Budget opt-in permit. Once the application for a NO_x Budget opt-in permit is withdrawn, a NO_x authorized account representative wanting to reapply must submit a new application for a NO_x Budget permit under Section 96.83.

(i) Effective date. The effective date of the initial NO_x Budget opt-in permit shall be May 1 of the first control period starting after the issuance of the initial NO_x Budget opt-in permit by the Department. The unit shall be a NO_x Budget opt-in source and a NO_x Budget unit as of the effective date of the initial NO_x Budget opt-in permit.

Section 96.85 NO_x Budget opt-in permit contents.

(a) Each NO_x Budget opt-in permit (including any draft or proposed NO_x Budget opt-in permit, if applicable) will contain all elements required for a complete NO_x Budget opt-in permit application under Section 96.22 as approved or adjusted by the Department.

(b) Each NO_x Budget opt-in permit is deemed to incorporate automatically the definitions of terms under Section 96.2 and, upon recordation by the EPA under subpart F, G, or I of this regulation, every allocation, transfer, or deduction of NO_x allowances to or from the compliance accounts of each NO_x Budget opt-in source covered by the NO_x Budget opt-in permit or the overdraft account of the NO_x Budget source where the NO_x Budget opt-in source is located.

Section 96.86 Withdrawal from NO_x Budget Trading Program.

(a) Requesting withdrawal. To withdraw from the NO_x Budget Trading Program, the NO_x authorized account representative of a NO_x Budget opt-in source shall submit to the Department a request to withdraw effective as of a specified date prior to May 1 or after September 30. The submission shall be made no later than 90 days prior to the requested effective date of withdrawal.

(b) Conditions for withdrawal. Before a NO_x Budget opt-in source covered by a request under paragraph (a) of this section may withdraw from the NO_x Budget Trading Program and the NO_x Budget opt-in permit may be terminated under paragraph (e) of this section, the following conditions must be met:

(1) For the control period immediately before the withdrawal is to be effective, the NO_x authorized account representative must submit or must have submitted to the Department an annual compliance certification report in accordance with Section 96.30.

(2) If the NO_x Budget opt-in source has excess emissions for the control period immediately before the withdrawal is to be effective, the EPA will deduct or has deducted from the NO_x Budget opt-in source's compliance account, or the overdraft account of the NO_x Budget source where the NO_x Budget opt-in source is located, the full amount required under Section 96.54(d) for the control period.

(3) After the requirements for withdrawal under paragraphs (b)(1) and (2) of this section are met, the EPA will deduct from the NO_x Budget opt-in source's compliance account, or the overdraft account of the NO_x Budget source where the NO_x Budget opt-in source is located, NO_x allowances equal in number to and allocated for the same or a prior control period as any NO_x allowances allocated to that source under Section 96.88 for any control period for which the withdrawal is to be effective. The EPA will close the NO_x Budget opt-in source's compliance account and will establish, and transfer any remaining allowances to, a new general account for the owners and operators of the NO_x Budget opt-in source. The NO_x authorized account representative for the NO_x Budget opt-in source shall become the NO_x authorized account representative for the general account.

(c) A NO_x Budget opt-in source that withdraws from the NO_x Budget Trading Program shall comply with all requirements under the NO_x Budget Trading Program concerning all years for which such NO_x Budget opt-in source was a NO_x Budget opt-in source, even if such requirements arise or must be complied with after the withdrawal takes effect.

(d) Notification.

(1) After the requirements for withdrawal under paragraphs (a) and (b) of this section are met (including deduction of the full amount of NO_x allowances required), the Department will issue a notification to the NO_x authorized account representative of the NO_x Budget opt-in source of the acceptance of the withdrawal of the NO_x Budget opt-in source as of a specified effective date that is after such requirements have been met and that is prior to May 1 or after September 30.

(2) If the requirements for withdrawal under paragraphs (a) and (b) of this section are not met, the Department will issue a notification to the NO_x authorized account representative of the NO_x Budget opt-in source that the NO_x Budget opt-in source's request to withdraw is denied. If the NO_x Budget opt-in source's request to withdraw is denied, the Budget opt-in source shall remain subject to the requirements for a NO_x Budget opt-in source.

(e) Permit amendment. After the Department issues a notification under paragraph (d)(1) of this section that the requirements for withdrawal have been met, the Department will revise the NO_x Budget permit covering the NO_x Budget opt-in source to terminate the NO_x Budget opt-in permit as of the effective date specified under paragraph (d)(1) of this section. A NO_x Budget opt-in source shall continue to be a NO_x Budget opt-in source until the effective date of the termination.

(f) Reapplication upon failure to meet conditions of withdrawal. If the Department denies the NO_x Budget opt-in source's request to withdraw, the NO_x authorized account representative may submit another request to withdraw in accordance with paragraphs (a) and (b) of this section.

(g) Ability to return to the NO_x Budget Trading Program. Once a NO_x Budget opt-in source withdraws from the NO_x Budget Trading Program and its NO_x Budget opt-in permit is terminated under this section, the NO_x authority account representative may not submit another application for a NO_x Budget opt-in permit under Section 96.83 for the unit prior to the date that is 4 years after the date on which the terminated NO_x Budget opt-in permit became effective.

Section 96.87 Change in regulatory status.

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(a) Notification. When a NO_x Budget opt-in source becomes a NO_x Budget unit under Section 96.4, the NO_x authorized account representative shall notify in writing the Department and the EPA of such change in the NO_x Budget opt-in source's regulatory status, within 30 days of such change.

(b) Department's and EPA's action.

(1) (i) When the NO_x Budget opt-in source becomes a NO_x Budget unit under Section 96.4, the Department will revise the NO_x Budget opt-in source's NO_x Budget opt-in permit to meet the requirements of a NO_x Budget permit under Section 96.23 as of an effective date that is the date on which such NO_x Budget opt-in source becomes a NO_x Budget unit under Section 96.4.

(ii) (A) The EPA will deduct from the compliance account for the NO_x Budget unit under paragraph (b)(1)(i) of this section, or the overdraft account of the NO_x Budget source where the unit is located, NO_x allowances equal in number to and allocated for the same or a prior control period as:

(1) Any NO_x allowances allocated to the NO_x Budget unit (as a NO_x Budget opt-in source) under Section 96.88 for any control period after the last control period during which the unit's NO_x Budget opt-in permit was effective; and

(2) If the effective date of the NO_x Budget permit revision under paragraph (b)(1)(i) of this section is during a control period, the NO_x allowances allocated to the NO_x Budget unit (as a NO_x Budget opt-in source) under Section 96.88 for the control period multiplied by the ratio of the number of days, in the control period, starting with the effective date of the permit revision under paragraph (b)(1)(i) of this section, divided by the total number of days in the control period.

(B) The NO_x authorized account representative shall ensure that the compliance account of the NO_x Budget unit under paragraph (b)(1)(i) of this section, or the overdraft account of the NO_x Budget source where the unit is located, includes the NO_x allowances necessary for completion of the deduction under paragraph (b)(1)(ii)(A) of this section. If the compliance account or overdraft account does not contain sufficient NO_x allowances, the EPA will deduct the required number of NO_x allowances, regardless of the control period for which they were allocated, whenever NO_x allowances are recorded in either account.

(iii)(A) For every control period during which the NO_x Budget permit revised under paragraph (b)(1)(i) of this section is effective, the NO_x Budget unit under paragraph (b)(1)(i) of this section will be treated, solely for purposes of NO_x allowance allocations under Section 96.42, as a unit that commenced operation on the effective date of the NO_x Budget permit revision under paragraph (b)(1)(i) of this section and will be allocated NO_x allowances under Section 96.42.

(B) Notwithstanding paragraph (b)(1)(iii)(A) of this section, if the effective date of the NO_x Budget permit revision under paragraph (b)(1)(i) of this section is during a control period, the following number of NO_x allowances will be allocated to the NO_x Budget unit under paragraph (b)(1)(i) of this section under Section 96.42 for the control period: the number of NO_x allowances otherwise allocated to the NO_x Budget unit under Section 96.42 for the control period multiplied by the ratio of the number of days, in the control period, starting with the effective date of the permit revision under paragraph (b)(1)(i) of this section, divided by the total number of days in the control period.

(2)(i) When the NO_x authorized account representative of a NO_x Budget opt-in source does not renew its NO_x Budget opt-in permit under Section 96.83(b), the EPA will deduct from the NO_x Budget opt-in unit's compliance account, or the overdraft account of the NO_x Budget source where the NO_x Budget opt-in source is located, NO_x allowances equal in number to and allocated for the same or a prior control period as any NO_x allowances allocated to the NO_x Budget opt-in source under Section 96.88 for any control period after the last control period for which the NO_x Budget opt-in permit is effective. The NO_x authorized account representative shall ensure that the NO_x

Budget opt-in source's compliance account or the overdraft account of the NO_x Budget source where the NO_x Budget opt-in source is located includes the NO_x allowances necessary for completion of such deduction. If the compliance account or overdraft account does not contain sufficient NO_x allowances, the EPA will deduct the required number of NO_x allowances, regardless of the control period for which they were allocated, whenever NO_x allowances are recorded in either account.

(ii) After the deduction under paragraph (b)(2)(i) of this section is completed, the EPA will close the NO_x Budget opt-in source's compliance account. If any NO_x allowances remain in the compliance account after completion of such deduction and any deduction under Section 96.54, the EPA will close the NO_x Budget opt-in source's compliance account and will establish, and transfer any remaining allowances to, a new general account for the owners and operators of the NO_x Budget opt-in source. The NO_x authorized account representative for the NO_x Budget opt-in source shall become the NO_x authorized account representative for the general account.

Section 96.88 NO_x allowance allocations to opt-in units.

(a) NO_x allowance allocation.

(1) By December 31 immediately before the first control period for which the NO_x Budget opt-in permit is effective, the Department will allocate NO_x allowances to the NO_x Budget opt-in source and submit to the EPA the allocation for the control period in accordance with paragraph (b) of this section.

(2) By no later than December 31, after the first control period for which the NO_x Budget opt-in permit is in effect, and December 31 of each year thereafter, the Department will allocate NO_x allowances to the NO_x Budget opt-in source, and submit to the EPA allocations for the next control period, in accordance with paragraph (b) of this section.

(b) For each control period for which the NO_x Budget opt-in source has an approved NO_x Budget opt-in permit, the NO_x Budget opt-in source will be allocated NO_x allowances in accordance with the following procedures:

(1) The heat input (in mmBtu) used for calculating NO_x allowance allocations will be the lesser of:

(i) The NO_x Budget opt-in source's baseline heat input determined pursuant to Section 96.84(c); or
(ii) The NO_x Budget opt-in source's heat input, as determined in accordance with subpart H of this regulation, for the control period in the year prior to the year of the control period for which the NO_x allocations are being calculated.

(2) The Department will allocate NO_x allowances to the NO_x Budget opt-in source in an amount equaling the heat input (in mmBtu) determined under paragraph (b)(1) of this section multiplied by the lesser of:

(i) The NO_x Budget opt-in source's baseline NO_x emissions rate (in lb/mmBtu) determined pursuant to Section 96.84(c); or

(ii) The most stringent State or Federal NO_x emissions limitation applicable to the NO_x Budget opt-in source during the control period.

TEXT OF R.61-62.99:

R.61-62.99. NITROGEN OXIDES (NO_x) BUDGET PROGRAM REQUIREMENTS FOR STATIONARY SOURCES NOT IN THE TRADING PROGRAM

Subpart A—(Reserved)

Subpart B--Emissions of Nitrogen Oxides from Cement Manufacturing.

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Section 99.41 Applicability.

The requirements of this subpart apply only to kilns with process rates of at least the following: long dry kilns - 12 tons per hour (TPH); long wet kilns - 10 TPH; preheater kilns - 16 TPH; precalciner and preheater/precalciner kilns - 22 TPH and/or have NO_x emissions greater than 1 ton per day.

Section 99.42 Definitions.

(a) "Alternative control technique" means a control technique that may include but not be limited to the following:

(1) an add-on control device that achieves the same reductions as low-NO_x burners or mid-kiln firing, or

(2) an operational control technique such as NO_x emission rates (which may be seasonal limitations and may be facility-wide or unit specific), operational limits, or other means of compliance as approved by the Department and EPA. Any owner or operator of a unit subject to this rule that chooses to comply with this regulation through the use of an operational control technique shall submit a compliance monitoring plan for review and approval by the Department and EPA. Unless otherwise authorized by the Department and EPA, this monitoring plan must demonstrate that the operational control technique achieves at least a thirty percent reduction in NO_x emissions from uncontrolled levels. The owner or operator may request that the Department and EPA approve a rate of NO_x emission reductions less than thirty percent. If the Department and EPA concur that the proposed reduction rate is appropriate, the Department and EPA may authorize a reduction rate lower than thirty percent.

(b) "Clinker" means the product of a Portland cement kiln from which finished cement is manufactured by milling and grinding.

(c) "Long dry kiln" means a kiln which employs no preheating of the feed. The inlet feed to the kiln is dry.

(d) "Long wet kiln" means a kiln which employs no preheating of the feed. The inlet feed to the kiln is a slurry.

(e) "Low-NO_x burners" means combustion equipment designed to reduce flame turbulence, delay fuel/air mixing, and establish fuel-rich zones for initial combustion.

(f) "Malfunction" means any sudden, infrequent, and not reasonably preventable failure of air pollution control equipment, process equipment, or a process to operate in a normal or usual manner. Failures that are caused in part by poor maintenance or careless operation are not malfunctions.

(g) "Mid-kiln firing" means the secondary firing in kilns by injecting solid fuel at an intermediate point in the kiln using a specially designed feed injection mechanism for the purpose of decreasing NO_x emissions through (1) burning part of the fuel at a lower temperature and (2) reducing conditions at the solid waste injection point that may destroy some of the NO_x formed upstream in the kiln burning zone.

(h) "Portland cement" means a hydraulic cement produced by pulverizing clinker consisting essentially of hydraulic calcium silicates, usually containing one or more of the forms of calcium sulfate as an interground addition.

(i) "Portland cement kiln" means a system, including any solid, gaseous or liquid fuel combustion equipment, used to calcine and fuse raw materials, including limestone and clay, to produce Portland cement clinker.

(j) "Precalciner kiln" means a kiln where the feed to the kiln system is preheated in cyclone chambers and utilize a second burner to calcine material in a separate vessel attached to the preheater prior to the final fusion in a kiln which forms clinker.

(k) “Preheater kiln” means a kiln where the feed to the kiln system is preheated in cyclone chambers prior to the final fusion in a kiln which forms clinker.

(l) “Shutdown” means the cessation of operation of a Portland cement kiln for any purpose.

(m) “Startup” means the setting in operation of a Portland cement kiln for any purpose.

Section 99.43 Standard requirements.

(a) For the control period that begins on May 31, 2004, an owner or operator of any Portland cement kiln subject to this rule shall not operate the kiln during May 31 through September 30 unless the kiln has installed and operates during May 31 to September 30 with low-NO_x burners, mid-kiln firing, or alternative control techniques, as defined under section 99.42(a). In all subsequent control periods, an owner or operator of any Portland cement kiln subject to this rule shall not operate the kiln during May 1 through September 30 unless the kiln has installed and operates during May 1 to September 30 with low-NO_x burners, mid-kiln firing, or alternative control techniques, as defined under section 99.42(a).

Section 99.44 Reporting, monitoring and recordkeeping.

(a) Reporting requirements. Any owner or operator subject to the requirements of Section 99.43 shall comply with the following requirements:

(1) By May 31, 2004, submit to the Department the identification number and type of each unit subject to the section, the name and address of the plant where the unit is located, and the name and telephone number of the person responsible for demonstrating compliance with the section.

(2) Submit a report to the Department by October 31 of each year documenting for that unit the total NO_x emissions. For the control period that starts on May 31, 2004, the report shall document the total emissions from May 31 through September 30. For all subsequent control periods, the report shall document the total NO_x emissions from May 1 through September 30.

(b) Monitoring Requirements.

(1) Any owner or operator of a unit subject to this rule shall complete an initial performance test and subsequent annual testing consistent with the requirements of 40 CFR part 60, Appendix A, Method 7, 7A, 7C, 7D, or 7E.

(2) Alternatively, the owner or operator can also comply with this subsection by the continuous monitoring of a process parameter that the owner/operator has demonstrated to the Department and EPA is related to NO_x emissions.

(3) Any owner or operator of a unit subject to this rule that chooses to comply with this regulation through the use of an operational control technique shall submit a compliance monitoring plan pursuant to section 99.42(a).

(c) Recordkeeping Requirements. Any owner or operator of a unit subject to this rule shall produce and maintain records which shall include, but are not limited to:

(1) The emissions, in pounds of NO_x per ton of clinker produced from each affected Portland cement kiln.

(2) The date, time and duration of any startup, shutdown or malfunction in the operation of any of the cement kilns or the emissions monitoring equipment.

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(3) The results of any performance testing.

(4) Daily cement kiln production records.

(5) All records required to be produced or maintained shall be retained on site for a minimum of 2 years and be made available to the EPA or State or local agency upon request.

Section 99.45 Exemptions.

The requirements of Section 99.43, Section 99.44, and Section 99.45 shall not apply to the following periods of operation:

(a) Start-up and shut-down periods and periods of malfunction, not to exceed 36 consecutive hours;

(b) Regularly scheduled maintenance activities.

Fiscal Impact Statement:

There will be no increased costs to the State or its political subdivisions as a result of these amendments.

Statement of Need and Reasonableness:

This statement of need and reasonableness was determined by staff analysis pursuant to S.C. Code Section 1-23-115(C)(1)-(3) and (9)-(11).

DESCRIPTION OF REGULATION:

Purpose: The proposed amendment will add two new regulations: 61-62.96, *Nitrogen Oxides (NO_x) Budget Trading Program*, and 61-62.99, *Nitrogen Oxides (NO_x) Budget Program Requirements for Stationary Sources Not In the Trading Program* to Regulation 61-62, *Air Pollution Control Regulations and Standards*, and will amend the South Carolina State Implementation Plan (SIP). These regulations are necessary to comply with the NO_x SIP Call which requires the Department to identify pollution-reduction measures and develop a plan to achieve these reductions. If the Department fails to submit an approvable plan, the EPA will establish a Federal Implementation Plan to achieve these reductions.

Legal Authority: The legal authority for R.61-62 is Sections 48-1-10 et seq., S.C. Code of Laws.

Plan for Implementation: The proposed amendments will take effect upon approval by the General Assembly and publication in the *State Register*. The proposed amendments will be implemented by providing the regulated community with copies of the regulation.

DETERMINATION OF NEED AND REASONABLENESS OF THE PROPOSED REGULATION BASED ON ALL FACTORS HEREIN AND EXPECTED BENEFITS:

On October 27, 1998, the United States Environmental Protection Agency (EPA) published a final rule titled, "Finding of Significant Contribution and Rulemaking for Certain States in the Ozone Transport Assessment Group Region for Purposes of Reducing Regional Transport of Ozone" [63 FR 57355]. This rule, also known as the NO_x SIP Call, requires South Carolina and certain other states to limit the summertime emissions of oxides of nitrogen (NO_x) which are one of the precursors of ozone pollution. EPA has stated in the rule that sources in these states emit NO_x in amounts that significantly contribute to nonattainment of the 1-hour National Ambient Air Quality Standard (NAAQS) for ozone in one or more down-wind states. The NO_x SIP Call requires reductions of summertime emissions of NO_x in South Carolina by about 19 percent and requires the Department to submit a revision to the South Carolina State Implementation Plan (SIP) that identifies measures necessary to achieve these

reductions. The purpose of this SIP revision is to comply with the federal requirement for NO_x reductions in the eastern half of the United States. If the Department fails to submit an approvable revision to the SIP, the EPA will establish a Federal Implementation Plan to achieve these reductions.

DETERMINATION OF COSTS AND BENEFITS:

The EPA has determined that the national annual cost to comply with the NO_x SIP Call is approximately \$1.7 billion in 1990 dollars [63 FR 57478]. The associated benefits, in terms of improvements in health, crop yield, visibility, and ecosystem protection, that EPA has quantified range from \$1.1 billion to \$4.2 billion. There will be no increased costs to the State and its political subdivisions.

UNCERTAINTIES OF ESTIMATES:

EPA has attempted to simulate a possible set of State implementation strategies and estimates the cost and benefits associated with that set of strategies. Due to practical analytical limitation, the EPA is not able to quantify all potential costs and benefits.

EFFECT ON ENVIRONMENT AND PUBLIC HEALTH:

The EPA has determined that the pollution-reduction measures required by these regulations will result in benefits to the public health and improvements in crop yield, visibility, and ecosystem protection.

DETRIMENTAL EFFECT ON THE ENVIRONMENT AND PUBLIC HEALTH IF THE REGULATIONS ARE NOT IMPLEMENTED:

If these regulations are not implemented then the public health benefits and other environmental improvements cited above may not be realized.

Document No. 2643

DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL

CHAPTER 61

Statutory Authority: Sections 38-33-10, *et seq.*, of the S.C. Code and 25A Regs. 69-22

R.61-10. *Operation of Health Maintenance Organizations*

Synopsis:

The Department is repealing Regulation 61-10, *Operation of Health Maintenance Organizations*, in its entirety. Pursuant to Sections 38-33-10, *et seq.*, of the S.C. Code and 25A Regs. 69-22, licensing and supervision of health maintenance organizations have been transferred to the South Carolina Department of Insurance. Since the Department no longer has any role regarding health maintenance organizations, the repeal of R.61-10 is appropriate. See Statement of Need and Reasonableness herein.

Instructions:

R.61-10, *Operation of Health Maintenance Organizations* is repealed in its entirety. Delete this regulation from Chapter 61 regulations in the S.C. Code of Laws.

Fiscal Impact Statement: Not applicable. There will be no fiscal or economic impact on the State or its political subdivisions and the regulated community by the repeal of R.61-10. There will be no cost to the regulated community.

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Statement of Need and Reasonableness:

This statement was determined by staff analysis pursuant to S.C. Code Section 1-23-115(C)(1)-(3) and (9)-(11).

DESCRIPTION OF REGULATION: R.61-10, *Operation of Health Maintenance Organizations*

Purpose: Since the Department no longer has any role regarding health maintenance organizations, the repeal of R.61-10 is appropriate.

Legal Authority: Sections 38-33-10, *et seq.*, of the S.C. Code and 25A Regs. 69-22

Plan for Implementation: None

DETERMINATION OF NEED AND REASONABLENESS OF THE PROPOSED REGULATION AMENDMENT BASED ON ALL FACTORS HEREIN AND EXPECTED BENEFITS: The requirements and need of R.61-10 have effectively been superseded by changes in S.C. Code of Laws that reassign responsibility for licensing and supervision to the South Carolina Department of Insurance.

DETERMINATION OF COSTS AND BENEFITS: There will be additional cost to the state and its political subdivisions.

UNCERTAINTIES OF ESTIMATES: The repeal of R.61-10 will not create a burden for the public, the State and its political subdivisions.

EFFECT ON ENVIRONMENT AND PUBLIC HEALTH: There will be no environmental or public health effect.

DETRIMENTAL EFFECT ON THE ENVIRONMENT IF THE REGULATION AMENDMENT IS NOT IMPLEMENTED: There will be no detrimental effect on the environment and public health by repeal of R.61-10.

Document No. 2645

DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL
CHAPTER 61

Statutory Authority: 1976 Code Section 44-55-2310 *et seq.*

R.61-51, Public Swimming Pools

Synopsis:

This amendment clarifies existing requirements for public swimming pools and outlines technical elements in a clear concise manner. The amendment better ensures the safe operation of all public swimming pools, spas and water parks. The amendment also provides an avenue for applying for construction and operational variances which will in turn allow for more flexibility in the design, construction and operation of public swimming facilities. See Discussion of Revisions below and Statement of Need and Reasonableness herein.

Discussion of Revisions:

Due to numerous revisions and changes in outline form, R.61-51 is being replaced in entirety.

SECTION	REVISION
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- R.61-51(A) Item numbers changed due to definition additions.
- R.61-51(A)(1) Clarifies definition for alteration.
- R.61-51(A)(2) Adds new definition for the abbreviation ASSE.
- R.61-51(A)(3) Adds new definition for the term attendant.
- R.61-51(A)(4) Definition altered to allow for other Department approved methods.
- R.61-51(A)(5) Certified Pool Operator language corrected.
- R.61-51(A)(6) Adds new definition for the term change order.
- R.61-51(A)(7) Adds new definition for the term competition pool.
- R.61-51(A)(8) The term twelve added for consistency.
- R.61-51(A)(9) Adds new definition for the term contiguous.
- R.61-51(A)(13) Adds new definition for the term elevated structure.
- R.61-51(A)(15) Definition of filter revised for clarification.
- R.61-51(A)(17) Definition of filter media revised for clarification.
- R.61-51(A)(18) Clarifies items that must be included in the first aid kit.
- R.61-51(A)(20) Adds new definition for the abbreviation gpm.
- R.61-51(A)(21) Adds new definition for hand feeding.
- R.61-51(A)(23) Definition of hose bibb revised for clarification.
- R.61-51(A)(28) Clarifies definition for life saving equipment.
- R.61-51(A)(29) Adds new definition for the main body of the pool.
- R.61-51(A)(30) Clarifies definition for main drain.
- R.61-51(A)(35) Adds new definition for the term non-slip.
- R.61-51(A)(36) Adds new definition for the term obstruction.
- R.61-51(A)(38) Clarifies and adds new definition for the term owner.
- R.61-51(A)(39) Adds new definition for the term pool area.
- R.61-51(A)(42) Adds new definition for the term portable kiddie slide.
- R.61-51(A)(43) Clarifies the definition for the term public swimming pool.
- R.61-51(A)(43)(c) Expands definition for Type “C” pools.

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- R.61-51(A)(43)(d) Clarifies definition and applicability of the term Type “D” pools.
- R.61-51(A)(44) Clarifies definition for the term recirculation piping.
- R.61-51(A)(47) Clarifies definition and applicability of the term residential swimming pool.
- R.61-51(A)(48) Clarifies definition for return inlets.
- R.61-51(A)(50) Adds new definition for the term shallow end of pool.
- R.61-51(A)(51) Clarifies definition for spray pool.
- R.61-51(A)(55) Adds new definition for the term technical assistance visit.
- R.61-51(A)(56) Clarifies the definition for transition point.
- R.61-51(A)(61) Replaces the term “recreational water facility” with “pool” for consistency.
- R.61-51(A)(63) Adds new definition for the term zero depth entry pool.
- R.61-51(B)(3)(a) Adds requirement to provide contractors license number, project cost as defined by LLR General and Mechanical Contracting Act , and owner’s signature to construction application information.
- R.61-51(B)(4)(e)(i) Adds requirement to include a location map.
- R.61-51(B)(4)(e)(ii) Adds requirement for an outlined block.
- R.61-51(B)(4)(i) Adds requirement to provide quantity of lighting.
- R.61-51(B)(4)(k) Adds requirement to provide size of chemical storage, equipment room, and exhaust fans on plans.
- R.61-51(B)(5) Clarifies the process for design/equipment changes.
- R.61-51(B)(6) Adds reference for pressure testing requirement.
- R.61-51(B)(7) Adds new language to require letter from project engineer or architect and requires a contractor’s and owner’s representative be present at the final inspection.
- R.61-51(B)(8) Replaces fee amounts with reference to R.61-30, *Environmental Protection Fees*.
- R.61-51(B)(9) Adds title and new language to clarify the process for repeat inspections.
- R.61-51(B)(10) Adds language to require new construction and alterations be performed by a construction contractor.
- R.61-51(C)(1) Clarifies applicability.
- R.61-51(C)(2) Changes spelling of bath house for consistency, adds the word supplied.
- R.61-51(C)(2)(a) Clarifies language for fillspouts.

- R.61-51(C)(2) Clarifies language for hose bibb protection and adds language for kiddie pools.
- R.61-51(C)(4) Adds new language to specify shatter resistant doors or windows within 10 feet of the pool area.
- R.61-51(C)(5)(b) Clarifies specifications for pool finish.
- R.61-51(C)(5)(b) Language moved from (D)(2)(f).
- R.61-51(C)(5)(c) Depth marker language moved to (C)(7).
- R.61-51(C)(6)(a)(ii) Clarifies language used.
- R.61-51(C)(6)(c) Reference to tables and chairs removed due to duplication.
- R.61-51(C)(6)(d) Language moved from (D)(2)(f).
- R.61-51(C)(6)(f) Clarifies required backflow prevention device.
- R.61-51(C)(7) Clarifies requirements for depth markers, adds language for no-diving tiles, metric tiles, and depth markers for bowl shaped pools.
- R.61-51(C)(8)(b) Clarifies that courtyard fencing may not satisfy pool fencing requirements.
- R.61-51(C)(9) Clarifies requirements for equipment rooms.
- R.61-51(C)(10) Clarifies requirements for chemical storage rooms
- R.61-51(C)(11) Requires all public pools have a drinking fountain with appropriate wiring.
- R.61-51(C)(12) Clarifies placement of the emergency telephone.
- R.61-51(C)(13) Reference to regulations for handicapped persons replaced by reference to the Americans with Disabilities Act.
- R.61-51(C)(13)(b) Clarifies backflow prevention device requirements.
- R.61-51(C)(14) Requires minimum toilet facilities at all pool types, clarifies distance of minimum toilet facilities.
- R.61-51(C)(16) Adds language for filter backwash disposal.
- R.61-51(C)(17) Adds language to include method and location of pool drainage on project plans.
- R.61-51(C)(18-37) Item numbers changed due to re-numbering.
- R.61-51(C)(19) Adds language to include heater design and thermostat cut-off.
- R.61-51(C)(20) Allows for device to regulate rate of flow on pump discharge piping.
- R.61-51(C)(21) Clarifies chemical feed pump requirements, limitations on hand feeding of chemicals and size of chemical feed containers.

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- R.61-51(C)(22) Requires separate recirculation systems for indoor and outdoor sections of indoor-outdoor pools.
- R.61-51(C)(24)(c) Requires schedule 40 or higher grade if PVC piping is used.
- R.61-51(C)(24)(d) Clarifies pressure testing procedure and piping requirements.
- R.61-51(C)(25)(a) Adds new language and clarifies inlet flow.
- R.61-51(C)(25)(b) The term fittings replaced by inlets, the words wall inlets added.
- R.61-51(C)(26)(a)(i) Clarifies pool surge capacity.
- R.61-51(C)(26)(b) Requires skimmers be NSF listed.
- R.61-51(C)(26)(b)(i) Reference added for lazy rivers.
- R.61-51(C)(26)(b)(iii) Requires extra skimmer basket for each pool.
- R.61-51(C)(27)(b) Language changed from one to at least one.
- R.61-51(C)(27)(c) Language changed from one to at least one.
- R.61-51(C)(28) Roman numerals changed to reflect changes in sign.
- R.61-51(C)(28)(a)(v) Communicable disease replaced by diarrheal illness or nausea.
- R.61-51(C)(28)(a)(vi) Nasal infection replaced by respiratory infection.
- R.61-51(C)(28)(a)(vii) Language added to address open lesions or wounds.
- R.61-51(C)(28)(a)(viii-xv) Item letters changed due to addition of rule.
- R.61-51(C)(28)(b) Clarifies that no diving sign shall be in all capitalized letters.
- R.61-51(C)(28)(c) Adds language for no lifeguard on duty signs.
- R.61-51(C)(28)(d) Item letter changed due to item addition.
- R.61-51(C)(28)(e) Adds language to require CPO name and number be posted on pool rules or separate sign.
- R.61-51(C)(29)(a-b) Clarifies requirements for main drains.
- R.61-51(C)(31)(a) Adds language to include fiberoptic lighting and colored lights.
- R.61-51(C)(31)(b) Lowers requirements for deck lighting.
- R.61-51(C)(31)(c)(i) Revises language regarding supply conductors and pool placement.
- R.61-51(C)(31)(d) Language added to include electric drinking water fountains.

R.61-51(C)(35)	Clarifies language for steps and ladders requirements.
R.61-51(C)(37)	Bridge language moved and clarified.
R.61-51(C)(38)	Adds language addressing portable kiddie slides.
R.61-51(D-H)	Quotations added to pool type for consistency.
R.61-51(D)(2)	Divides existing language into separate paragraphs to reduce confusion.
R.61-51(D)(2)(a)	Adds language to identify how slope will be measured.
R.61-51(D)(2)(b)	Title added for consistency.
R.61-51(D)(2)(c)	Title added and language clarified.
R.61-51(D)(2)(d)	Adds new language to include Zero Depth pools.
R.61-51(D)(2)(e)	Item letter changed due to re-numbering, title added, references corrected.
R.61-51(D)(2)(f)	Item letter changed due to re-numbering, title added.
R.61-51(D)(2)(g)	Item letter changed due to re-numbering, title added, language pertaining to seats deleted.
R.61-51(D)(2)(h)	Language pertaining to seats combined to form one paragraph.
R.61-51(D)(2)(i)	Item letter changed due to re-numbering.
R.61-51(D)(2)(j)	Item letter changed due to re-numbering. Clarifies construction tolerances.
R.61-51 (Depth chart footnote)	Language added for shallower depths.
R.61-51(D)(3)	Title changed to include stands. Requires diving stands (starting blocks) at pools with racing lanes be of the removable type.
R.61-51(D)(4)(b)	The term one hundred added for consistency.
R.61-51(E)(2)	Language added for floor equalizers, clarifies perimeter depth.
R.61-51(E)(4)	The term one hundred added for consistency.
R.61-51(E)(7)	Corrects reference to another section.
R.61-51(E)(8)	Adds language for kiddie pool fill line.
R.61-51(E)(9)	Adds language to require automatic controllers on new Type "C" pools.
R.61-51(F)(2)	Adds language for drains supplying booster system and emergency cut-off switch and corrects references to other areas of the Regulation.

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- R.61-51(F)(3)(b) The term one hundred added for consistency.
- R.61-51(F)(5) Lowers thermostat cut-off from 110 to 104 degrees Fahrenheit.
- R.61-51(F)(6) Replaces “spas” with “Type “D” pools”.
- R.61-51(G)(3)(b) Deletes language pertaining to natural water.
- R.61-51(G)(3)(e)(ii) Adds language for night use.
- R.61-51(G)(7) Adds language to require automatic controllers on new Type “E” pools of 1,500 gallons or less.
- R.61-51(G)(8) No change in text. Item number changed due to re-numbering.
- R.61-51(H)(3)(b) The term one hundred added for consistency.
- R.61-51(H)(4) Adds language to require automatic controllers on new Type “F” pools of 1,500 gallons or less.
- R.61-51(H)(5) No change in text. Item number changed due to re-numbering.
- R.61-51(I)(1) Clarifies when a change order is required.
- R.61-51(I)(2) Emphasizes the requirement for a change order and clarifies existing language.
- R.61-51(I)(3) Identifies the required form, reference simplified.
- R.61-51(I)(4) Includes the associated piping for pump and filter.
- R.61-51(I)(5) Emphasizes the requirement for a change order and clarifies existing language, adds language for temporary pool enclosures.
- R.61-51(I)(6) Added to emphasize the requirement for a change order and clarifies existing language to include references to other sections.
- R.61-51(I)(7) Added to emphasize the requirement for a change order and clarifies existing language to include references to other sections.
- R.61-51(I)(8) Added to emphasize the requirement for a change order for new construction and clarifies existing language to include references to other sections.
- R.61-51(I)(9) Added to emphasize the requirement for a change order for new construction and clarifies existing language to include references to other sections.
- R.61-51(I)(10) Item number changed due to re-numbering. Previously approved change orders included.
- R.61-51(J)(2) Revises dates associated with payment of fees and operating permits.
- R.61-51(J)(4)(b) Adds language for deck furniture.
- R.61-51(J)(5) Revises language concerning water supply.

- R.61-51(J)(6) Revises drinking water fountain language.
- R.61-51(J)(8) Adds language to clarify purpose of equipment enclosure room.
- R.61-51(J)(9) The term his/her added for consistency.
- R.61-51(J)(10) The term his/her added for consistency.
- R.61-51(J)(11)(a) The term two-thousand added for consistency.
- R.61-51(J)(11)(b) Requires all pools to be locked when not open.
- R.61-51(J)(11)(c) Changes requirement from adequate supervision to attendants.
- R.61-51(J)(11)(d) Revises language concerning life saving equipment.
- R.61-51(J)(11)(e) Adds language pertaining to emergency equipment deleted from (J)(11)(d).
- R.61-51(J)(11)(f-j) Item letters changed due to re-numbering.
- R.61-51(J)(11)(f) Adds language pertaining to first aid kits deleted from (J)(11)(d).
- R.61-51(J)(11)(g) Clarifies existing language concerning emergency notification devices.
- R.61-51(J)(11)(h) Adds language to clarify posting of signs in pool areas, reference corrected to reflect changes.
- R.61-51(J)(11)(i) Reference changed to reflect re-numbering.
- R.61-51(J)(11)(j) Reference changed to reflect re-numbering.
- R.61-51(J)(11)(k) Adds language concerning diving stands.
- R.61-51(J)(11)(l) Adds language concerning automatic vacuum systems.
- R.61-51(J)(12) Reference changed to reflect re-numbering.
- R.61-51(J)(14) Section title changed from “Water Quality Standards” to “Water Quality”.
- R.61-51(J)(14)(a) Adds language concerning test kits.
- R.61-51(J)(14)(a)(i) Language added to allow for methods approved by the USEPA or *Standard Methods*.
- R.61-51(J)(14)(b-c) Item letters changed due to re-numbering.
- R.61-51(J)(14)(d) Language added pertaining to hand feeding of chemicals.
- R.61-51(J)(14)(e) Language added pertaining to chemical or biological contamination.
- R.61-51(J)(16) Changes maximum pools temperature from 110 degrees Fahrenheit to 104 degrees Fahrenheit.

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- R.61-51(J)(17)(a-c) Clarifies existing text pertaining to daily operation reports.
- R.61-51(J)(18) Language moved to (18) from (21) and revised.
- R.61-51(J)(19) No change in text, item number changed due to re-numbering.
- R.61-51(J)(20) Revises language for bacteriological quality. Item number changed due to re-numbering.
- R.61-51(J)(21) Revises language for inspection of pool facilities and sampling of pool water. Item number and letters changed due to re-numbering.
- R.61-51(J)(22) Revises language for facility closure, changing and adding time limitations.
- R.61-51(J)(23) Deletes language pertaining to payment of operating permit fees, replaced by reference to R. 61-30 Environmental Protection Fees.
- R.61-51(K) Section name changed from “Enforcement and Penalties” to “Pool Closures and Enforcement”.
- R.61-51(K)(1) Item number changed due to re-numbering.
- R.61-51(K)(1)(a)(i) Revises language for displaying annual operating permit.
- R.61-51(K)(1)(a)(iii) Revises language for visibility of main drains.
- R.61-51(K)(1)(a)(iv) Revises language for life saving equipment.
- R.61-51(K)(1)(v) Adds language for emergency notification device.
- R.61-51(K)(1)(a)(vi) Item number changed due to re-numbering. Revises language for safety hazards.
- R.61-51(K)(1)(a)(vii) No change in text. Item number changed due to re-numbering.
- R.61-51(K)(1)(a)(viii) No change in text. Item number changed due to re-numbering. Original item (viii) moved.
- R.61-51(K)(1)(a)(ix) Revises language for recirculation equipment. Item number changed due to re-numbering. Original item (ix) deleted.
- R.61-51(K)(1)(a)(x) Language added for pool log.
- R.61-51(K)(1)(a)(xii) Maximum pool temperature changed from 110 to 104 degrees Fahrenheit.
- R.61-51(K)(1)(a)(xiii) Revises language for posting of signs.
- R.61-51(K)(1)(a)(xiv) Language moved from (viii).
- R.61-51(K)(1)(a)(xv) Adds language for proof of certified pool operator.
- R.61-51(K)(1)(b) Revises language for pool closure.
- R.61-51(K)(1)(c) Revises language for pool closure procedures.
- R.61-51(K)(1)(d) Adds language for technical assistance visit.

- R.61-51(K)(2) Deletes language for penalties. Item number changed due to re-numbering.
- R.61-51(K)(3) Combines language for penalties and enforcement deleted from (K)(1) and (K)(2).
- R.61-51(L) Remains the same.
- R.61-51(M) Provides the date this regulation takes effect.

Certain graphics (pool specifications, depth chart, skimmer diagram, radial pool steps) are shown in the code at the end of R. 61-51. The Department is removing these graphics due to duplication within the body of the regulation.

Instructions: Replace R.61-51, Public Swimming Pools, in its entirety by this amendment.

Text:

Regulation 61-51. PUBLIC SWIMMING POOLS.

CONTENTS

- A. DEFINITIONS
- B. CONSTRUCTION AND OPERATING PERMITS
- C. GENERAL CONSTRUCTION REQUIREMENTS FOR ALL PUBLIC SWIMMING POOLS
- D. PUBLIC SWIMMING POOL DESIGN REQUIREMENTS FOR TYPE "A" AND "B" POOLS
- E. DESIGN REQUIREMENTS FOR TYPE "C" POOLS
- F. DESIGN OF TYPE "D" POOLS
- G. DESIGN OF TYPE "E" POOLS
- H. DESIGN OF TYPE "F" POOLS
- I. EQUIPMENT CHANGES AND ALTERATIONS
- J. OPERATION AND MAINTENANCE FOR ALL TYPE POOLS
- K. POOL CLOSURES AND ENFORCEMENT
- L. PRIOR REGULATIONS
- M. EFFECTIVE DATE

A. DEFINITIONS

1. "Alteration" means any change in equipment or materials used in the construction of a public swimming pool, after completion which does not conform to the original, permitted plans, specifications, and change orders. Alterations include, but are not limited to, such items as pool or deck resurfacing, painting, equipment changes, and structural additions or deletions.

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2. "ASSE" means the American Society of Sanitary Engineering.
3. "Attendant" means a person who supervises or controls the entrance, exit or other activities of pool patrons. An attendant may not act as a lifeguard.
4. "Automatic Controller" means integrated electrical/electronic equipment, connected to chemical feed equipment, to continuously monitor and control the pH level and chlorine/bromine (O.R.P method or other method acceptable to the Department) residual of swimming pool water.
5. "Certified Pool Operator" means a person who has the qualifications and training to operate a public swimming pool and holds a valid pool operator's license issued by the Department of Labor, Licensing and Regulation.
6. "Change Order" means written notification submitted to the Department on a Swimming Pool Change Order Request Form detailing any proposed equipment changes or material alterations which do not conform to the original approved plans, specifications, or previously approved change order.
7. "Competition Pool" means a pool designed to be routinely used to host organized swim competitions such as those sponsored by colleges, universities, swim leagues, and swim clubs.
8. "Coping" means the covering which joins the top of the pool wall with the pool decking and is considered part of the minimum pool deck width requirement. If cantilevered deck is employed, the last twelve (12) inches of this deck next to the pool wall shall be considered coping.
9. "Contiguous" means within a one (1) foot horizontal distance.
10. "Department" means the South Carolina Department of Health and Environmental Control.
11. "Diatomaceous Earth" is a type of filter media that is obtained from the fossil remains of microscopic marine plants and is used in a thin coating over filter septa or bags.
12. "Disinfection Equipment" means any device used to supply approved disinfectants to the pool water.
13. "Elevated Structure" means any structure located within a ten (10) foot horizontal distance from the pool edge, which allows for patron access, and may serve as a raised platform for diving into a pool. This includes, but is not limited to elevated planters, trellises, pillars, walls, other vertical structures, or any construction which is interpreted by the Department as a structure usable by patrons for diving into a pool.
14. "Emergency Equipment" means a backboard with straps, two (2) blankets, cervical collars in adult and infant sizes or a commercial head immobilizer.
15. "Filter" means any apparatus containing filter media which is intended to physically remove suspended particles from pool water.
16. "Filter Backwash Piping" means the piping which extends from the backwash outlet of the filter to its terminus at the point of disposal.
17. "Filter Media" means the fine material which entraps the suspended particles as the water passes through the filter.

18. "First Aid Kit" means a water resistant, clearly labeled, latched container providing sufficient first-aid equipment to treat up to fifteen (15) people. The kit will contain as a minimum: alcohol wipes, antibiotic ointment, assorted adhesive bandages, a breathing barrier, a cold pack, gauze, and disposable gloves.

19. "Flow Meter" means a device installed on the pool return pipe (discharge line from filter) to indicate recirculation flow of the pool in gallons per minute (gpm).

20. "gpm" means gallons per minute.

21. "Hand feeding" means the dispensing of any pool chemical manually into the pool.

22. "Heater" means a device through which pool water is circulated to increase the temperature of the water which is specifically designed for pool or spa use.

23. "Hose Bibb" means water faucet with male screw threads to which a hose is attached.

24. "Hydrostatic Relief Valve" means a device, usually installed in the main drains, used to relieve ground water pressure imposed on the outer shell of the pool.

25. "Kiddie Play Park" means wading (kiddie) or spray pools intended to be used exclusively by children where climb-on toys and attractions are provided.

26. "Lifeguard" means a person having the qualifications of and possessing a current American Red Cross, YMCA, or equivalent Lifeguard Certificate, current First Aid Certificate and current CPR (which includes adult, child, and infant) Certificate.

27. "Lifeline Anchors" means the devices recessed in the wall of the pool at the transition point between shallow and deep areas.

28. "Life Saving Equipment Unit" means a coast guard approved ring buoy at least twenty (20) inches in diameter attached to a throwing line having a length of one and one-half (1 1/2) times the width of the pool up to a fifty (50) feet maximum length of rope and a life hook of the shepherd's crook style with minimum twelve (12) foot handle attached with stainless steel nut and bolt. For Type "A" and "E" pools a rescue tube may be used in place of a shepherd's crook and life ring.

29. "Main Body of the Pool" means the major portion of the pool body excluding any recesses, niches, coves, etc.

30. "Main Drain" means the outlet(s) at the bottom of the pool. These outlets are suction/gravity outlets connected to the recirculation piping.

31. "Main Drain Piping" means the piping connecting the main drain to either the pump suction, surge tank, or the vacuum filter.

32. "Major Fraction" means twenty-five percent (25%) or more.

33. "Minimum Flow Rate" means the least flow of water through the water treatment system that must be maintained to provide adequate treatment and is calculated by dividing the volume of the pool, in gallons, by the required turnover time, in minutes (gallons/minutes).

34. "Normal Operating Level" means the water level at one-half (1/2) the skimmer throat depth or at the gutter lip.

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35. “Non-Slip” means having a coefficient of friction of 0.6 or greater when wetted for manufactured tile; or broom finish or other textured finish for concrete as recognized by the American Concrete Institute; or for other surfaces, incorporated features designed to prevent slippage.

36. “Obstruction” means any structure or object which blocks or limits access to the perimeter area of the pool. This includes but is not limited to planters, walls, water features, pillars, etc.

37. “Overflow Gutter” means a device at the normal water level which is used as an overflow and to skim the pool surface, in lieu of a surface skimmer.

38. “Owner” means the owner of the facility or his/her designated agent such as a property manager or on-site representative.

39. “Pool Area” means any area located within the fenced perimeter of the pool to include but not limited to the pool deck. The pool deck will define this area for facilities which do not have a perimeter fence. Where a fence is not required the pool area will include but not be limited to the pool deck.

40. “Pool Deck” means the paved area around the pool which is specifically constructed for use by swimmers.

41. “Pool Depth” means the distance between the floor of the pool and the normal operating level when the pool is in use.

42. “Portable Kiddie Slide” means a single flume slide with a starting height no greater than five (5) feet above the deck, made as a complete unit by a single manufacturer, and intended for use by children, which may be moved when not in use.

43. “Public Swimming Pool or pool” means an artificial structure used to impound water either above or below the ground surface to provide for such recreational uses as bathing, swimming, diving, wading, spraying, sliding, floating, rafting, or other similar usage which is not built in connection with a single family residence and the use of which is not confined to the family of the residence and their private guests, or which is not owned, constructed, operated, or maintained by a church, synagogue, or religious organization, or facility exempted under Title 45, Chapter 4, of the South Carolina Bed and Breakfast Act. Public swimming pools are listed in the following categories based upon specific characteristics of size, usage, and other factors:

(a) Type “A” means any pool open to the general public, except for Type “E” pools, which does not require a membership or that a person be a guest of a member to gain entrance to the pool, or is not operated solely for and in conjunction with a residential development or a place of lodging.

(b) Type “B” means swimming pools at hotels, motels, apartments, mobile home parks, condominium developments, country clubs, schools, swim clubs, health clubs, campgrounds, subdivisions and other pools of similar usage. Lazy rivers constructed at the above facilities shall be considered Type “B” pools.

(c) Type “C” means wading pools, kiddie pools, spray pools, spray decks, or wet decks.

(d) Type “D” means treatment pools, health spa pools and hot tubs. Rehabilitation or therapy pools located at hospitals, sports therapy clinics, doctors offices, or other medical facilities which will be used solely for therapy and rehabilitation purposes and under the supervision of a physical therapist or other qualified medical personnel are excluded from this regulation.

(e) Type “E” means those pools at water parks such as water flumes, water slides, lazy rivers, wave parks, inner tube rides, kiddie play parks, etc.

- (f) Type “F” means special purpose pools used exclusively for limited activities such as scuba diving lessons, helmet diving lessons, underwater work training, or similar, limited uses.
44. “Recirculation Piping” means the piping from the pool to the filter and return to the pool, through which the water circulates.
45. “Recirculation Pump” means the pump(s) that provide for complete recirculation of pool water through the recirculation piping and filter(s) at a prescribed rate of turnover.
46. “Recirculation System” means a system consisting of pumps, motors, piping, filters, inlets, outlets, disinfecting and other water conditioning equipment and necessary accessories.
47. “Residential Swimming Pool” means any privately owned swimming pool which is built in connection with a single family residence, the use of which shall be confined to the family of the owner and his guests, shall not include any type of cooperative housing or joint tenancy of two or more families, and shall be located within the same property boundary as the family dwelling building to which it serves. Pools constructed in conjunction with a single family rental unit will be considered a residential pool.
48. “Return Inlets” means the fittings or openings through which water is returned to the pool.
49. “Return Piping” means the piping which carries the filtered water under pressure from the filter to the pool.
50. “Shallow End of Pool” means the portion of the pool with water depths of four (4) feet or less.
51. “Spray Pool” or spray deck or wet deck means an artificial structure used to impound water either above or below the ground surface into which treated water is sprayed and recirculated.
52. “Surface Skimmer” means a device used to skim the pool over a self-adjusting weir.
53. “Surface Skimmer Piping” means the piping that carries water from the skimmer to the pump suction, to include the equalizer piping.
54. “Surge Tank” means an approved fixture or device of such material, shape, and capacity as to adequately receive the surge water from indirect or direct overflows, so constructed and located as to be easily cleaned.
55. “Technical Assistance Visit (TAV)” means a comprehensive on-site evaluation by the Department of a public pool to include pool area and associated equipment, operation and maintenance, and a review of current season inspections.
56. “Transition Point” means the point in a pool where the slope changes from one (1) ft. vertical to ten (10) ft. horizontal (1:10) maximum to one (1) ft. vertical to three (3) ft. horizontal (1:3) maximum. This point may separate the deep end from the shallow end.
57. “Turnover Time” means the period of time (usually hours) required to circulate the complete volume of water in a pool through the recirculation system.
58. “Vacuum Outlets” means the fitting in the pool which is used as an outlet for connecting the underwater suction cleaning equipment.
59. “Vacuum Piping” means the piping which connects the vacuum fitting to the pump suction.
60. “Wading (Kiddie) Pool” means a pool intended to be used exclusively by children for wading.

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61. "Water Course, Water Slides or Water Flumes" means any pool using a water flume, channel, or slide for purposes of sliding and landing in an area filled with water (this does not include commercially manufactured swimming pool sliding boards).

62. "Well-Point System" means perforated pipe(s) placed in a gravel pit under the deepest point of the pool, where a pump may be connected to remove excess ground water from beneath the pool.

63. "Zero Depth Entry Pool" means a pool with a starting water depth of zero (0) feet which uniformly slopes to a deeper water depth.

B. CONSTRUCTION AND OPERATING PERMITS

1. Applicability. Requirements of this section are applicable to all new construction and alterations of existing public swimming pools.

2. Construction Permit. No public swimming pool may be constructed or altered until a permit to construct has been issued by the Department.

3. Application for Permit to Construct. The application must be made on a form supplied by the Department and be accompanied by the appropriate application/review fee. The application must include:

(a) The names, complete address and telephone number of the owner, pool contractor, and facility; contractor's license number and project cost as defined by South Carolina Department of Labor, Licensing, and Regulation, General and Mechanical Contracting Act, Chapter 11, Title 40. The owner must sign the application.

(b) Responsibilities of the owner and pool contractor to include: the swimming pool, deck and coping, equipment room, fence, area lights, bathhouse, minimum toilet facilities, chemical storage room, water lines, hose bibbs and water discharge lines, where applicable.

(c) Details of the pool to include type of pool, perimeter, area, volume, minimum flow rate, design flow rate, total deck area, pool limit and deck limit.

4. Plans and Specifications. At least four (4) copies of complete plans and specifications meeting the following requirements must accompany all applications of permits to construct:

(a) Plans and specifications shall be prepared, stamped, dated and signed by an architect or engineer registered in the State of South Carolina.

(b) Plans shall be submitted on sheets no larger than 36" by 42" and no smaller than 18" by 24".

(c) Typed or legible specifications shall be submitted on sheets 8 1/2" by 11" or printed on the plans.

(d) Plans and specifications must include data that pertains to that project only (except site plans; which by their nature must include other structures and details). Standard plans and/or specifications with crossed-out sections or inapplicable provisions will not be acceptable for review.

(e) Plans and specifications must include:

(i) A location map with the name of the facility, the location showing distance in miles and local landmarks and the names and addresses of the owners.

(ii) An outlined block for the perimeter, the surface area, the volume, the total deck area, the minimum flow rate, the design flow rate, the swimming limit and the deck limit specifically listed on the plans.

(f) A site plan must be provided consisting of a detailed layout of the facility and the surrounding structures. The site plan must show the distance to toilet facilities, telephone, the location of utilities that affect construction of the pool, elevation differences in the deck and surrounding structures, the location and elevations of planters within 10 feet of the pool edge, etc.

(g) Plan and profile views of the public swimming pool must be shown. These views must be drawn to a minimum of 1/8" scale with all major pool dimensions shown on the drawing. All equipment (fittings, ladders, diving boards, main drains, surface skimmers, overflow gutters, inlets, lights, piping location, fill spout, etc.) shall be clearly located on these views.

(h) A complete equipment list must be included. This list must include manufacturer's name and manufacturer's complete model number (not distributor's name and model number).

(i) Actual layout of deck area including dimensions, showing the location of hose bibbs, footshowers, overflows, depth markers, deck drains, and deck lighting must be provided. Deck material and color must be specified. The quantity of lighting in watts, lumens, or foot candles that will be provided for the deck and pool areas must be provided where night swimming is requested.

(j) Schematic plumbing diagrams showing pipe sizes on each section of pipe, valves, flow meter, heater, filters, pumps, etc. must be shown.

(k) Equipment room plan drawing showing actual layout of equipment (heater, pump, filter, chlorinator, and other equipment), spacing, elevation, all pipe sizes, location and size of sumps, floor drains and other appurtenances with dimensions given and drawn to a minimum 1/4" scale shall be provided. The volume of the equipment and chemical storage rooms must be provided along with the minimum size of the exhaust fans to be installed.

(l) Source of pool water used must be specified.

(m) Disposition of sanitary sewage from the facility must be specified.

(n) Disposition of filter backwash must be specified. Approval from the Department will be required for all discharges.

(o) Complete details of any required bathhouse or minimum toilet facility shall be submitted.

5. Design/Equipment Changes.

(a) New Construction. Once a construction permit has been issued for a public swimming pool, construction must be in accordance with the approved plans and specifications. Should design changes or equipment changes become necessary during construction, a Swimming Pool Change Order Request Form, detailing the proposed changes must be submitted to and approved by the Department prior to initiation of such changes. Revised plans documenting all construction modifications will be required to be submitted prior to the final Department inspection. The submittal must include four (4) complete sets of revised plans that are signed, sealed, and dated by the project architect or engineer.

(b) Existing Facilities. After a pool has received approval to be placed into operation, a Change Order Request Form must be submitted in accordance with Section I for any alteration which does not conform to the original permitted plans, specifications, or previously approved change order.

6. Piping Inspection. During actual construction of the public swimming pool, after all piping has been installed and before it is covered, the contractor, design engineer, or architect, must notify the Department in

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writing so that an inspection of all piping, fittings, and other applicable equipment can be conducted to verify their sizes and locations. Pressure testing of the piping must be conducted in accordance with Section C, Paragraph 24(d). If there are any variations from the approved plans and specifications, such variations must be corrected by the contractor, or plans and specifications detailing the changes must be re-submitted for a construction permit revision prior to continuance of construction.

7. Final Approval. No newly constructed or altered public swimming pool shall be placed into operation until a final inspection of the facility has been conducted and a written approval to be placed into operation is issued by the Department. Before the final inspection can be conducted three (3) letters must be submitted, one by the pool contractor; one by the general contractor, owner or his designated agent; and one by the project architect or engineer; certifying that the public swimming pool has been constructed according to approved plans and specifications and is ready for the final inspection. All three letters must be received by the Department before a final inspection will be conducted. This is to include bathhouse, minimum toilet facilities, if required, fence, equipment room, area lighting, and other applicable items. A contractor's and owner's representative must be present at the time of the final inspection.

8. Fees. The Department shall collect non-refundable application/review fee(s) with each application according to the schedule outlined in R.61-30, *Environmental Protection Fees*.

9. Repeat Inspections. The Department may collect an additional fee from the contractor for each repeat piping inspection for each pool and from the owner for each repeat final inspection for each pool that is required due to incomplete construction or construction that is not in accordance with permitted plans and specifications as outlined in R.61-30. There will be a mandatory two (2) day (business days) waiting period between all repeat piping, final, and change order inspections to provide for review and rescheduling.

10. Construction Contractor. All new construction and alterations to existing public swimming pools must be performed by a contractor holding a South Carolina license with the appropriate sub-classification in accordance with the South Carolina Department of Labor, Licensing and Regulation's General and Mechanical Contracting Act, Chapter 11, Title 40 as amended.

C. GENERAL CONSTRUCTION REQUIREMENTS FOR ALL PUBLIC SWIMMING POOLS

1. Applicability. Requirements of this section are applicable to all new construction and alterations of existing public swimming pools. All work must be performed in accordance with good engineering practice and recognized industry standards.

2. Water Supply. All water used in public swimming pools, drinking fountains, bathhouse, or minimum toilet facilities, must be supplied from a Public Drinking Water System.

(a) Water for filling pools shall be supplied by a fillspout that is located at least 2 diameters of the fillspout above the rim of the swimming pool or an above the rim supply to the surge tank, whereby no arrangements exist which, under any condition, permits contaminated water to re-enter the potable water system. The fillspout must be located adjacent (no greater than six (6) inches away) to a ladder or under a handrail or diving board and extend to the edge of the coping and not more than one (1) inch past the edge of the coping. All fillspouts must be of chrome plated brass, stainless steel, or other equivalent material approved by the Department.

(b) Where a fillspout is not employed, an approved double check valve assembly in the line supplying water to the pool shall be used. The device must be installed in a location which is accessible for visual inspection and for testing and/or repair. The double check valve assembly must be tested by a certified tester after installation and before use by the customer as required by the South Carolina State Primary Drinking Water Regulations 61-58. Each device used must be from the approved list of backflow prevention devices issued by the Department. The municipality or water utility which supplies the facility and the Department shall be provided a copy of the

test results. Kiddie pools may be filled via a hose bibb if it is protected by an ASSE 1024 listed residential dual check or other Department approved backflow prevention device.

3. Sanitary Sewage. The disposition of sanitary sewage from the bathhouse or minimum toilet facilities must be into a sanitary sewer, a septic tank or other waste treatment facility which has been approved by the Department.

4. Location. The location of the pool will in no way hinder the operation for which it is designed nor adversely affect bather's safety or water quality. Outdoor pools must not be located where they will be exposed to excessive pollution by dust, smoke, soot, or other undesirable substances. If pool is located within ten (10) feet horizontally of any overhanging second story balcony or any elevated structure, a protective barrier must be provided on said balcony or elevated structure. This barrier must be a minimum of five (5) feet in height and have no openings within this barrier greater than 4 inches in width. Buildings or structures within ten (10) feet of the pool area must have shatter resistant doors and windows. All indoor pools must be located in adequately ventilated areas.

5. Material and Finish.

(a) Public swimming pool shells must be constructed of reinforced concrete or other structurally sound material equivalent in strength and durability, designed and built to withstand anticipated stresses, and designed and built of watertight construction with smooth and impervious surfaces. If a pool structure is to be lined with a dissimilar material, the two materials must be continually and permanently bonded so as not to separate at any time or place. American Concrete Institute standards must be used in design and construction of reinforced concrete including gunite, shotcrete and other types of acceptable concrete. No vinyl lined pools or spas are allowed.

(b) A moderately smooth, non-slip white or light colored water proof finish, which will withstand repeated brushing, scrubbing and cleaning procedures, must line the pool. Paint, fiberglass, or epoxy coated finishes shall be non-toxic, water-resistant, of one single very light color, and must continually and permanently bond so as not to separate at any time. Colors must have reflectance of 55% or greater except for logos. All corners and edges shall be rounded and smooth to prevent cuts or abrasions to swimmers. All corners and all junctions of walls and floor must be rounded with a minimum six (6) inch radius. Any variation of this required six (6) inch radius must be approved on an individual basis.

(c) A minimum six (6) inch glazed frost proof tile or other easily cleanable surface must be placed at the normal water line.

(d) Logos or extraneous writing or materials shall be approved on an individual basis. Color, size and pattern of logos shall not be such as to obscure the existence or presence of objects or persons within the pool.

6. Pool Decks.

(a) The deck must be continuous around the public swimming pool and unobstructed, with minimum widths as follows:

(i) Type "A" six (6) feet

(ii) Type "B" four (4) feet; Type "B" pools over 1600 sq. ft., six (6) feet.

(iii) Type "C" four (4) feet

(iv) Type "D" two (2) feet around 100% or four (4) feet around at least 50% of the facility.

(v) Type "E" flumes, slides and lazy rivers ten (10) feet around the exit of the landing pool, four (4) feet around the starting pool. All other Type "E" pools are required to have a minimum of six (6) feet.

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(vi) Type "F". Deck widths for Type "F" pools will be determined depending on the use of each pool.

(b) Pool decks required in (a) above must be constructed of broom finish concrete or other material which is as equal in strength and durability. The deck must be non-slip, impervious and no hazard to bare feet. The deck must slope 1/4" to 5/8" per foot away from the pool. No wood decking or carpet is allowed within the required minimum deck widths.

(c) A minimum of three (3) feet of deck width must be provided on the sides and rear of any piece of diving or sliding equipment, lifeguard chairs, ladders and handrails. Poolside tables and chairs or other equipment must not obstruct the deck areas within the minimum widths listed for each type pool.

(d) All corners and edges of deck or coping must be smooth and round so as to not cause cuts or abrasions to swimmers. The top of the pool wall must be uniformly level and designed with bull-nosed coping or some other acceptable means by which an adequate handhold is provided around the entire pool perimeter.

(e) All deck drainage must be "to waste" and not be filtered and returned to the pool. Deck drains must be installed where necessary to prevent standing water on the deck. The deck drain grates shall be removable or provide for other means so as to facilitate the cleaning of the drains.

(f) Hose bibbs must be provided around the perimeter of the deck area at intervals such that all parts of the deck can be reached with a fifty (50) foot hose. All hose bibbs in the pool area must have an ASSE 1024 listed residential dual check or other Department approved backflow prevention device. The height of the hose bibb(s) shall be not less than ten (10) inches above deck.

(g) All outdoor pools shall be provided with a shower at major entrance points such that bathers may rinse their feet before entering the pool.

(h) Up to ten percent (10%) of the pool perimeter may be obstructed. Obstructions shall have the required minimum deck width behind or through them within fifteen (15) feet of the water. These obstructions must be protected by a barrier or must be designed to discourage patron access. When an obstruction exists in multiple areas around the pool the minimum distance between obstructions shall be four (4) feet.

7. Depth Markers. Permanent depth markers must be plainly marked at or above the water surface on the vertical pool wall and on the edge of the coping or deck next to the pool, at a maximum and minimum point and at not more than two (2) foot intermediate increments of depth. Depth markers must be spaced at not more than fifteen (15) foot intervals on center, as measured around the perimeter of the pool. Depth markers must be in numerals and letters of four (4) inch minimum height and of a white background. Depth markers must be on both of the sides and ends of the pool. Depths must be indicated in feet to the nearest one-half (1/2) foot. The abbreviation "ft." or word "feet" must be included. A total of twelve (12) inches of white background tile must be included as part of each depth marker(s). Depth markers are required for all pools, kiddie pools, spas, hot tubs, special water park pools, etc. Depth markers on deck must be non-slip. In pools requiring "No Diving" signs, a single six inch by six inch universal no diving tile must be co-located with each set of deck depth marker tiles. Metric depth markers may be installed at any facility in addition to the standard markers required above. Depth markers for pools with multiple slopes (bowl shaped) must accurately reflect the minimum depth at the edge of the pool and the maximum depth at the center of the pool and separated by a hyphen. For example, a pool sloping from all sides to the center would require the installation of the following depth markers, "3 FT – 5 FT". Alternative types of depth markers will be considered on a case by case basis for pools using stainless steel gutters or fiberglass shells.

8. Fences.

(a) All outdoor Type "A" and "E" public swimming pools (including the deck area) must be enclosed by a chain link fence or equal barrier of minimum six (6) foot height to prevent trespassing and to provide safety and cleanliness of the water. All openings in the barrier must be equipped with gates or doors that close automatically and can be locked.

(b) All outdoor Type "B", "C", "D" and "F" public swimming pools (including the deck area) shall be enclosed by a minimum four foot fence or equivalent, impenetrable landscape or structural barrier (e.g., a hedge a minimum of 2 feet thick of densely planted growth). All openings in the barrier must be equipped with gates or doors that close automatically and can be locked. Courtyard fencing may not be adequate to constitute fencing of the pool area.

9. Equipment Room.

(a) A suitable equipment room shall be provided to house all pool equipment to prevent unauthorized access. The room shall be of substantial and enduring construction to protect the equipment from damp, corrosive environment. This room shall have a roof, be at least 8' high and have a standard size lockable entrance door. Where equipment rooms are constructed at a different elevation than the surroundings, permanent steps should be provided for entry. The equipment room must be sized so that all equipment is accessible for ease of operation and inspection. The room must have at least one (1) watt of artificial light for each square foot of floor area with a minimum of 100 watts incandescent. Forced ventilation must be provided so that the equipment room has a minimum of ten (10) complete air changes per hour and is vented to the outside and away from the pool. The floor shall be concrete and shall include necessary sumps and floor drains. The purpose of this room is for recirculation system equipment only and storage of any other material or equipment is prohibited. Equipment rooms constructed below grade must be provided with reasonable access so as not to be considered a confined space.

(b) A suitable alternative to the above room will be considered on a case by case basis as long as the pool equipment is protected from a damp and corrosive environment, vandalism, and has adequate access for maintenance.

10. Chemical Storage. All pool chemicals must be housed in a separate room from the equipment room. The chemical storage room must have at least one (1) watt of artificial light for each square foot of floor area with a minimum of 100 watts incandescent light. Forced ventilation must be provided so that the chemical storage room has a minimum of ten (10) complete air changes per hour and is vented to the outside. The pool chemical room must be kept dry and locked at all times. Only chemicals used in the operation of the pool shall be stored in this room. Chemical storage rooms constructed below grade must be provided with reasonable access so as not to be considered a confined space.

11. Drinking Fountain. At least one (1) drinking fountain shall be provided within fifty (50) feet of the pool at all public pools. All drinking water fountain wiring must be in accordance with the NEC.

12. Telephone. A toll free telephone or other device to notify emergency personnel must be provided within a two hundred (200) foot walking distance of the pool and in a location that it is easily accessible during the hours that the pool is in operation.

13. Bathhouse Facilities. Dressing and sanitary plumbing facilities must be provided for all Type "A" and "E" public swimming pools. Bathhouse facilities shall be located within two hundred (200) feet of the swimming pool. Applicable Americans with Disabilities Act guidelines shall be observed. Every bathhouse must be provided with separate facilities for each sex with no inter-connection between the male and female facilities. The rooms must be so developed and planned that good sanitation can be maintained throughout the building at all times.

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(a) Minimum Fixtures. Minimum sanitary plumbing fixtures for Type "A" and "E" pools must be provided as follows:

(i) Males. One (1) water closet, one (1) lavatory, and one (1) urinal for the first one-hundred (100) male swimmers, or major fraction thereof. One (1) additional water closet, lavatory and urinal must be provided for each additional two hundred (200) male swimmers or major fraction thereof. A minimum of two (2) showers for the first one hundred (100) male swimmers and one (1) shower for each additional fifty (50) male swimmers or major fraction thereof.

(ii) Females. A minimum of two (2) water closets and one (1) lavatory for the first one hundred (100) female swimmers, or major fraction thereof. Two (2) additional water closets and one (1) lavatory must be provided for each additional two hundred (200) female swimmers or major fraction thereof. A minimum of two (2) showers for the first one-hundred (100) female swimmers and one (1) shower for each additional fifty (50) female swimmers or major fraction thereof.

(b) Hose Bibbs. Hose bibbs located at least ten (10) inches above the floor must be provided for washing down the dressing rooms and bathhouse interior. Each hose bibb must be provided with an ASSE 1024 listed residential dual check or other Department approved backflow prevention device.

(c) Floors. The floors of the bathhouse must be of impervious material, relatively smooth but not a slick finish, to ensure complete cleaning. Floor drains must be installed and must be a minimum of four (4) inches in diameter to ensure positive drainage of all parts of the building, with a slope in the floor of not less than one-fourth (1/4) inch per foot, toward the drains. Carpet shall not be used on bathhouse floors.

(d) Materials and Finish. Materials and finishes used in bathhouses and/or restrooms are subject to approval by the Department. All screen, shower, toilet and dressing room booth partitions must be made of durable materials not subject to damage by water and must be so designed that each area can be adequately drained.

(e) Steps. No steps will be allowed in the interior of any dressing rooms.

(f) Light and Ventilation. Showers and dressing room areas must be furnished with one (1) watt of incandescent light for each square foot of floor area and have adequate ventilation.

(g) Soap Dispensers. Soap dispensers for providing either liquid or powdered soap must be provided at each lavatory or between each pair of lavatories. Soap dispensers providing either liquid or powdered soap must be provided at each shower head or between each pair of shower heads.

(h) Mirrors. Mirrors, if provided, must be shatter-resistant.

(i) Toilet Paper Holders. Toilet paper holders must be provided at each water closet.

(j) Tempered Water. Tempered water only must be provided at all shower heads. Water heater and thermostatic mixing valves must be inaccessible to bathers and must be capable of providing two (2) gallons per minute of water to each shower head. The temperature of the water must not exceed 90 degrees Fahrenheit and must have an automatic cut-off thermostat set at 90 degrees Fahrenheit.

(k) Towels. Single service paper towel dispensers or blower type hand dryers must be provided.

14. Minimum Toilet Facilities.

(a) Minimum toilet facilities shall be provided within a three hundred (300) foot walking distance of Type "B", "C", "D", and "F" pools. Minimum toilet facilities must consist of at least one (1) lavatory and one (1) water closet for each sex. Floors must be of impervious materials and relatively smooth, but not have a slick finish.

Each room must be furnished with a minimum of 60 watts of incandescent light and have adequate ventilation. Soap dispensers for providing either liquid or powdered soap must be provided at each lavatory or between each pair of lavatories. Mirrors, if provided, must be made of shatter-resistant material. Single service paper towel dispensers or blower type hand dryers must be provided. Toilet paper holders must be provided at each water closet. Floors must be well drained with drain outlets to prevent standing water. Carpet shall not be used on the floors.

(b) Minimum toilet facilities are not required if all living units are within a three hundred (300) foot walking distance of the nearest water's edge and are each equipped with private facilities.

15. Filtration System.

(a) Diatomite Filters. Filters must be approved by and bear the seal of the National Sanitation Foundation. Filters may be of either pressure or vacuum type. The filter rate must not exceed two (2) gallons per minute per square foot of filter surface area. Provisions must be made for backwashing the filter at not less than two (2) gallons per minute per square foot of filter surface area. The filter(s) must be provided with pressure or vacuum gauges for determining the need for backwashing and sight glass to determine when backwash is clear.

(b) High Rate Sand Filters. Filters must be approved by and bear the seal of the National Sanitation Foundation (NSF). The filter rate may not exceed fifteen (15) gallons per minute per square foot of filter surface area. A higher rate may be allowed if approved by the NSF. Provisions must be made for backwashing the filter(s) at the manufacturer's recommended backwash rate. The filter(s) must be provided with pressure gauges for determining the need for backwashing, backwash sight glass, and air-relief device.

(c) Cartridge Filters. Filters must be approved by and bear the seal of the National Sanitation Foundation. The filters must be of a disposable or washable element. Surface types must have a maximum flow rate of 0.375 gallons per minute for each square foot of effective filter area. A spare cartridge filter must be provided at each site where these types of filters are used.

(d) Other Filters. The National Sanitation Foundation and/or the Department must approve any filters other than those described above before they can be considered for use in the recirculation system for public swimming pools.

16. Filter Backwash. Backwash from the filter(s) must be piped to a disposal pit, tile field, or other disposal method approved by the Department. If the backwash water is to be discharged to a sanitary sewer system or municipal separate storm sewer system, specific approval must be obtained from the municipality or sewer authority for such discharge. If the method of backwash will be to an on-site storm sewer system, the location of the discharge and the name and distance of any receiving body of water must be identified on the project plans. Any discharge of backwash water to a water body must receive prior approval from the Department. If the method of backwash disposal will be to a pit or tile field, the location of discharge must be identified on the project plans and the receptacle must be adequately sized to accept the pool drainage. Also, a three (3) minute backwash cycle must be conducted at the time of the final inspection to ensure that there is adequate capacity of the disposal system. A minimum six (6) inch air gap must be maintained at the discharge point or two (2) single in-line check valves must be installed in the backwash line. The receptacle must be sufficiently sized to accommodate the backwash flow.

17. Pool Drainage. The method and location of discharge employed to drain the pool must be included on the project plans and the receptacle must be adequately sized to accept the pool drainage.

18. Rate of Flow Indicator. Every public swimming pool must be provided with a rate of flow indicator located on the discharge line from the filters. Rate of flow indicators must be accurate to + or - 5% and installed according to manufacturer's instructions. Dimensions must be shown on the schematic diagram, indicating the actual location of the rate of flow indicator. The rate of flow indicator must be calibrated for and provided with a scale

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reading in gallons per minute and shall have an upper range at least ten (10) percent above the maximum design flow rate. The scale resolution of the meter must fall within the design flow of the system. The activating element of the flow indicators must be installed in the filter effluent line. The flow meter must be mounted such that it can be easily read.

19. Heater. Heaters, where used, shall be installed and operated in accordance with manufacturer's recommendations and local building codes to include proper ventilation. The heater design must be such that it will not affect the minimum required design flowrate. A thermostat control must be provided with an automatic cut-off for an upper limit of 104 degrees Fahrenheit and above.

20. Pump and Motor. Pumps and motors under five (5) horsepower must be National Sanitation Foundation (NSF) approved or must be equally listed by a Testing Lab approved by the Department. The pump and motor must be of adequate size and capacity to provide the required pool turnover rate and should be located so as to eliminate the need for priming. Pumps must be single speed with a service factor greater than 1.15. If pump or suction piping is located above the overflow level of the pool, the pump must be self-priming. The pump and motor must be designed to supply, without overloading, the required design rate at a total dynamic head sufficient to overcome the friction losses in the piping, appurtenances, and the maximum headloss through the filter(s). Unless headloss calculations are provided by the designing engineer, pump design must be based on an assumed total dynamic head of fifty five (55) feet of water. All pumps must be provided with a corrosion-resistant strainer to remove solids, debris, hair, lint, etc. Pool pump motors must have an on/off switch within arms reach of the pump(s). Pump(s) shall not be activated by a panel circuit breaker. All pumps shall be installed in accordance with NEC. A device for regulating the rate of flow may be provided in the recirculation pump discharge piping.

21. Water Treatment. Equipment for halogen disinfection (chlorine, bromine) must be provided on all pools. This equipment must be approved by and bear the seal of the National Sanitation Foundation. The equipment must be of such capacity to feed one (1) pound of free available chlorine per ten-thousand (10,000) gallons of pool volume per twenty-four (24) hour period in all pools. The equipment must be operable at all times that the recirculation system is in operation. This equipment must be installed in accordance with the approved manufacturer's instructions. The equipment manufacturer's name and model number of chemical feeder, as well as the size and number of feeding tanks must be furnished. All chemical feed pumps must be wired directly to the recirculation pump such that when recirculation flow stops chemical feed is halted. GAS CHLORINATION IS NOT PERMITTED. No chemical may be manually fed while the pool is open for operation. Supplemental water treatment systems may be approved on a case by case basis. Chemical feed containers for use with liquid feed systems, in excess of fifteen (15) gallons, must be provided with spill containment and must be clearly labeled. A detailed drawing must be included on the project plans.

22. Separate System. Each individual pool constructed must have its own pump, motor, filter, disinfection equipment, piping, etc., such that it is a complete unit and not dependent upon any other recirculation system, except as provided otherwise in these regulations. Separate recirculation systems are required for indoor-outdoor pools with a separate and independent system for both the indoor and outdoor bodies of water.

23. Automatic Controller. If an automatic controller is to be used, the device must be installed in accordance with the approved manufacturer's instructions. The device must also be directly wired to the recirculation pump and a flow switch such that when the recirculation flow stops, the chemical feed pumps are switched off.

24. Piping.

(a) The determination of sizes of pipe, fittings, and valves on the complete main pump suction line from the swimming pool must be based upon a rate of friction loss for piping of not more than six (6) feet per one-hundred (100) feet based upon the Hazen-Williams formula using the following "C" values:

Iron Pipe: $c = 100$

Copper Pipe: $c = 120$

PVC Pipe: $c = 150$

(b) All piping on the discharge side of the pump for filtration and to the point for discharge of backwash water from the filter plant must have pipe sizes determined on a basis for friction losses which must not be more than twelve (12) feet per one-hundred (100) feet using “C” values given above.

(c) If PVC pipe is used it must be schedule 40 or greater, the chart below lists the maximum flow allowable in gallons per minute (gpm) for the indicated pipe sizes at 6’/100’ suction loss and 12’/100’ pressure loss for schedule 40 PVC plumbing.

Pipe Sizes in Inches	Suction at 6’ / 100’ (flow in gpm)	Pressure at 12’ / 100’ (flow in gpm)
1 1/2”	27	39
2”	57	83
2 1/2”	105	150
3”	165	245
4”	355	510
5”	640	925
6”	1000	1500

(d) All piping must be hydrostatically tested under pressure prior to being covered by earth, deck or pool structure. Minimum pressure for testing shall be thirty (30) psi or one and one half (1 1/2) times the normal operating pressure on the return line, whichever is greater. Pressure must be maintained constant for two (2) hours. PVC pipe must be approved by the American National Standards Institute/National Sanitation Foundation or other laboratory acceptable to the Department with the ANSI/NSF or equal designated seal on each section of pipe. Only SD 26 Class 160 and SD 21 Class 200 PVC pipe meeting ASTM Standard D1785 or D2241 are acceptable in sizes twelve (12) inches and smaller. No heat bending of PVC pipe is allowed. All pool piping, angles, and elbows must be braced and supported to preclude possible settlement or rupture of the line. Gravity waste lines around the pool six (6) inches or smaller must have a minimum slope of one-fourth (1/4) inch per foot toward the effluent point. Lines larger than six (6) inches and all out-fall waste lines must be designed with a size of pipe and slope to maintain a minimum velocity of two (2) feet per second with no overload or back pressure in the lines. All piping and equipment must be provided as much as possible with positive means of completely draining all water to prevent damage from freezing. All piping in the equipment room must be permanently marked with directional arrows and identified as to origin and use, e.g., surface skimmer, main drains, etc. No flexible piping may be installed as part of the pool recirculation or booster systems. NSF PVC flexible piping may only be used for spa air lines and must be glued at all joints.

25. Pool Inlets and Outlets.

(a) All inlets and outlets must be provided and arranged to produce complete recirculation of water and the maintenance of uniform disinfectant throughout the pool. Relative placement of inlets and skimmers shall not produce short circuiting of the recirculation water. There must be at least four (4) return inlets, except for facilities covered under Section E and F. Each return inlet must have variable orifice, directional flow fittings so that the flow pattern can be adjusted. The maximum flow per inlet for all recirculation and booster system return inlets is twenty-five (25) gpm or a velocity of no greater than forty (40) feet per second per inlet. A minimum of ten (10) gpm must be provided per inlet.

(b) In pools with surface area greater than fifteen hundred (1,500) square feet, or length in excess of sixty (60) feet, inlets must be placed around the entire perimeter at maximum fifteen (15) foot intervals. In any case, an adequate number of inlets must be provided, properly spaced and located so as to accomplish complete

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recirculation and maintenance of a uniform and adequate level of disinfecting medium at all times. Approved inlets may be installed uniformly in the pool floor if the requirement of one (1) inlet per fifteen (15) feet of pool perimeter is met. All pool inlets must be corrosion resistant types and wall inlets must have means to adjust the flow pattern.

26. Overflow/Skimming Devices. All public swimming pools must have one (1) of the following types of surface skimming devices. Skimming action must be provided at all times when the recirculation system is in operation. Total capacity of all overflow/skimming devices in any pool must be at least one hundred percent (100%) of the required filter flow of the recirculation system.

(a) Perimeter Overflow Gutters. These gutters may be of the recessed or roll-out type. If recessed gutters are used, they must be located near the top of the pool wall and must have a minimum depth of three (3) inches. They must be uniformly level and be designed to serve as a handhold. The gutter drain outlets shall be constructed of non-corrosive material and must be placed on a maximum of fifteen (15) foot centers; gutter branch lines must be a minimum of two (2) inches in diameter. The gutter bottom must slope toward these outlets with a minimum slope of one-eighth (1/8) inch per foot. The gutter must be easily accessible for cleaning. The opening into the gutter must not be less than four (4) inches wide.

(i) When perimeter overflow gutters are used, a surge capacity must be provided to accommodate excess water that cannot be satisfactorily accommodated by the recirculation system. Surge capacity must be not less than one gallon for each square foot of pool surface. Recovery time required to return the overflow system to skimming action after maximum pool displacement has ceased must be minimized. Credit may be given for in pool surge capacity provided that the gutter is designed to serve in this manner and skimming action is provided over the complete range of water levels.

(ii) Roll-out gutters must have a width of eight (8) to twelve (12) inches and must have an edge that is uniformly level. The lip of the gutter must have a minimum pitch of one (1) inch to twelve (12) inches of width. Gutter drains of non-corrosive material must be located on maximum eight (8) foot centers; gutter branch lines must be a minimum of one and one-half (1 1/2) inches in diameter. The gutter must slope toward these outlets with a minimum slope of one-eighth (1/8) inch per foot.

(iii) Requests for gutters differing from those described above will be reviewed for approval on an individual basis after supporting engineering data, including complete hydraulics of the proposed gutter system and connecting piping has been submitted. Gutter systems must be designed so that skimming action will occur over the complete range of water levels from quiescence to full bather load.

(b) Recirculating Surface Skimmers. At least one (1) NSF listed skimmer must be provided for each four hundred (400) square feet of pool surface area, or major fraction thereof.

(i) Skimmers must be located so that the middle of the skimmer is positioned three (3) to seven (7) inches below the pool coping such that the normal operating water level of the pool is the middle of the skimmer. In lazy rivers, this depth may be increased to nine and one half (9.5) inches. The skimmer throat shall be made of tile and recessed a minimum of six (6) inches from the inside pool wall with a minimum of eighteen (18) inches opening in the pool wall angling into the skimmer throat opening (see diagram).

(ii) Skimmer weirs must be automatically adjustable to variations in water level over a range of at least three (3) inches.

(iii) An easily removable and cleanable basket, or screen, through which all overflow water must pass must be provided in each skimmer to trap large solids. One extra skimmer basket shall be provided for each pool.

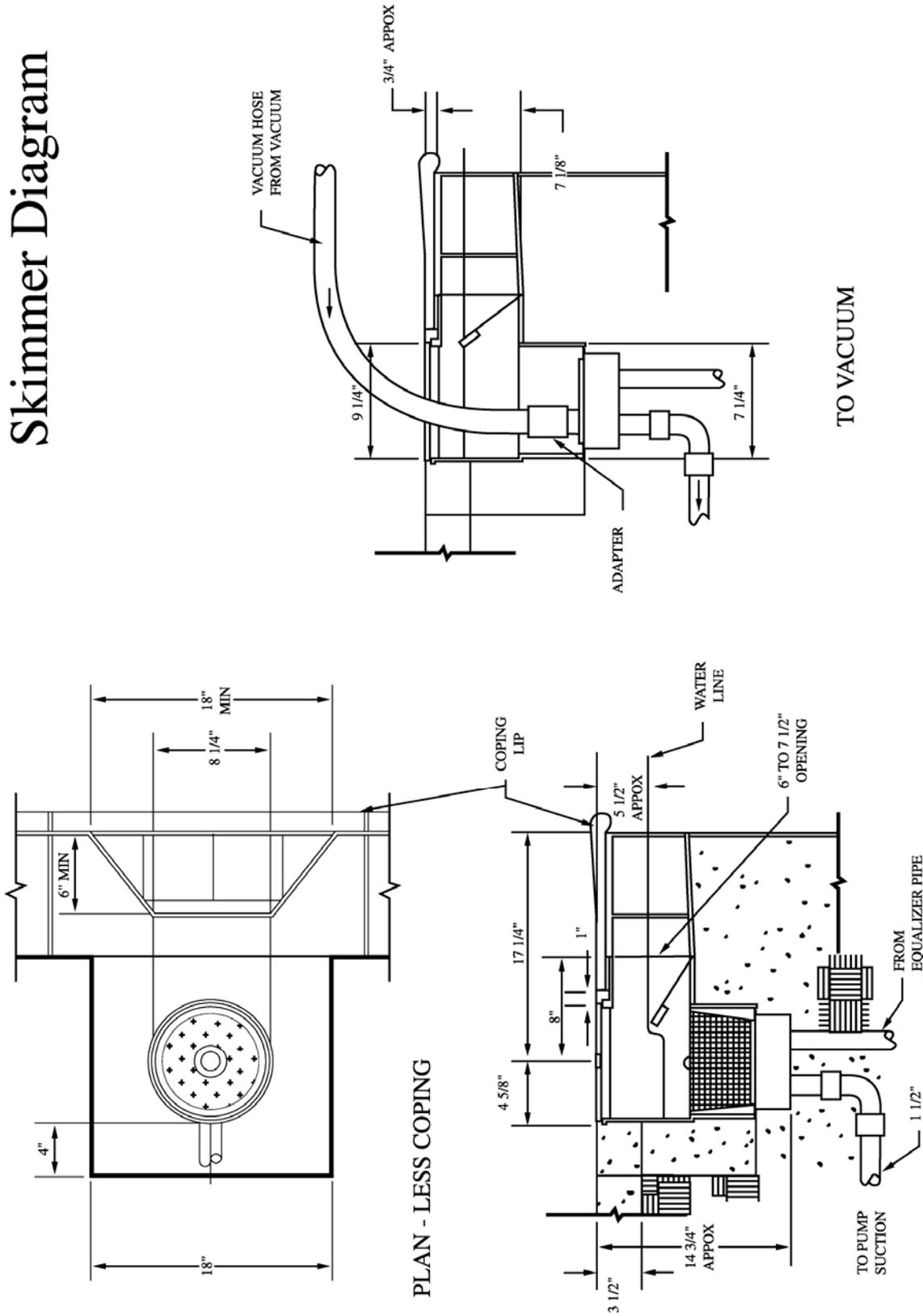
(iv) The skimmer must be provided with an equalizer pipe to prevent airlock in the suction lines. This pipe must provide an adequate amount of make-up water for pump suction should the water of the pool drop below

weir level. It must be at least one and one half (1 1/2) inches in diameter and be located at least one (1) foot below the lowest overflow level of the skimmer. It must be provided with a valve or equivalent device that will remain tightly closed during normal operating conditions, but will automatically open when the water level drops as much as two (2) inches below the lowest weir level.

(v) The overflow weir must operate at all flow variations expected, and must be of such buoyancy and design so as to develop an effective velocity over the weir lip.

(vi) The skimmer must be of substantial, enduring and corrosion-resistant material. Each skimmer must have a device to control flow.

Skimmer Diagram



27. Safety Equipment.

(a) Lifeguard Chairs. There must be a minimum of one (1) lifeguard chair provided for each two-thousand (2,000) square feet of pool surface or major fraction thereof for Type "A" and "E" pools. Where two (2) or more lifeguard chairs are required they shall be strategically located to provide adequate coverage for all bathers. Lifeguard chairs must be elevated to such a height that will allow complete survey of the pool swimming area.

(b) Life Saving Equipment. All pools must be equipped with at least one (1) unit of life saving equipment. This equipment must be located within the pool area and inside the fence. One (1) unit of life saving equipment must be provided for each lifeguard chair. Life saving equipment is not required at Type "C" and "D" pools.

(c) Emergency Equipment. All Type "A" and "E" pools must be equipped with at least one (1) unit of emergency equipment.

(d) First Aid Kit. All pools must have a first aid kit. This kit must be readily accessible during posted pool hours.

28. Signs.

(a) Pool Rules Sign. A "Pool Rules" sign for informational purposes must be posted in a conspicuous place in the pool area and must contain, as a minimum, the items listed below, with the blanks reflected in (xii) through (xv) below filled in before authorized operation:

- (i) There should be no solo swimming.
- (ii) There should be no running, boisterous or rough play.
- (iii) No person under the influence of alcohol or drugs should use the pool.
- (iv) There should be no spitting or blowing nose in pool.
- (v) Persons with diarrheal illness or nausea should not enter the pool.
- (vi) Persons with skin, eye, ear or respiratory infections should not enter the pool.
- (vii) Persons with open lesions or wounds should not enter the pool.
- (viii) No animals or pets allowed in the pool.
- (ix) No glass allowed in the pool or on the deck.
- (x) No children should be in the pool without supervision.
- (xi) You should take a shower before entering the pool.
- (xii) This pool is open from ___ a.m. to ___ p.m.
- (xiii) The maximum number of swimmers allowed in the pool is ___.
- (xiv) A first aid kit is located _____.
- (xv) An emergency phone (or other notification device) is located ___.

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(b) No Diving Sign. In addition to the above sign, permanent and separate “NO DIVING ALLOWED” signs must be displayed in conspicuous locations at all pools of surface area greater than two hundred (200) square feet and not having dimensions adequate for diving. The sign must read in all capitalized letters “SHALLOW WATER – NO DIVING ALLOWED” and must have minimum four (4) inch lettering for “SHALLOW WATER” and six (6) inch lettering for “NO DIVING ALLOWED”. Two (2) or more signs must be provided so as to be clearly visible to anyone entering the pool. This sign may be required on Type “C”, “D”, “E”, and “F” pools if the Department decides the signs are applicable.

(c) No Lifeguard on Duty Sign. In addition to the above signs, permanent and separate “NO LIFEGUARD ON DUTY” signs must be displayed in conspicuous locations. The sign must read in all capitalized letters “NO LIFEGUARD ON DUTY – SWIM AT YOUR OWN RISK” and must have minimum six (6) inch lettering for “NO LIFEGUARD ON DUTY” and must have minimum four (4) inch lettering for “SWIM AT YOUR OWN RISK”. Two (2) or more signs must be provided and be clearly visible to anyone entering the pool. These signs are required on all Type “B”, “C”, “D”, and “F” pools that do not have lifeguards.

(d) Spa Caution Sign. In addition to a pool rules sign, heated spas must also have a waterproof sign with bold lettering which is clearly visible and contains the following warning statement:

CAUTION

(i) Elderly persons and those suffering from heart disease, diabetes, high or low blood pressure should consult their physician before using the spa.

(ii) The use of this spa while under the influence of alcohol, anticoagulants, antihistamines, vasoconstrictors, vasodilators, stimulants, hypnotics, narcotics or tranquilizers should be avoided.

(iii) Pregnant women should not use the spa without consulting their physician.

(iv) Persons should spend no more than fifteen (15) minutes in the spa at any one (1) session. Long exposures may result in nausea, dizziness or fainting.

(v) The maximum temperature recommended by the South Carolina Department of Health and Environmental Control, for any spa is 104°F. The actual temperature of this spa at _____ o' clock today is _____ ° F.

(e) Certified Pool Operator Sign. A sign must be posted or language must be added to the “Pool Rules” sign which reads, “The Certified Pool Operator at this facility is _____ State certification number _____.”

29. Main Drains.

(a) A minimum of two (2) main drains must be provided on the bottom floor of the pool with at least one (1) at the lowest point of the floor to completely drain the entire pool. All such outlets must be interconnected and each drain must be directly connected to the main drain line. The interconnecting line must be adequately sized to accommodate 100% of the recirculation or booster pump flow. The main drain spacing must not be greater than twenty (20) feet nor less than three (3) feet on centers, nor shall they be more than fifteen (15) feet from any side wall. Interconnecting and outlet pipes must be flush with side wall and/or floor of main drain sump.

(b) Each outlet grate area must be sized to accommodate 100% of the recirculation flow and the velocity through the open area of the grate must not be greater than one and one-half (1 1/2) feet per second. Each drain sump or pot must be of adequate depth and design to provide for uniform suction across the entire grate area. Outlet grates must be anchored with corrosion resistant screws that cannot be removed without the use of tools

and slots must not be more than one-half (1/2) inch wide. When the outlet fittings are of the anti-vortex type, maximum entrance velocities may be increased to six (6) feet per second. All outlet grates must be of corrosion resistant materials.

(c) Hydrostatic relief valves must be incorporated into at least one of the lowest main drain sumps or a well point system must be provided. These may not be required when the bottom of the pool is above the high water table.

30. Overflow. If overflow connections are not provided in skimmers or surge tanks, some type of overflow must be built into the pool wall which will be of sufficient size to carry off water that could be supplied by the fillspout, rainfall, or automatic fill device. All such overflow devices must drain to an approved location and must have a minimum six (6) inch air gap or check valve. Overflows will not be required on pools having less than fifteen hundred (1,500) gallons volume.

31. Electrical and Illumination Requirements. Artificial lighting must be provided at all public swimming pools which are to be used at night or which do not have adequate natural lighting so that all portions of the pool, including the bottom, may be readily seen without glare.

(a) Underwater Lighting. Where underwater lighting is used, not less than 0.5 watts of incandescent lighting or 8.35 lumens must be provided per square foot of pool area. An adequate number of lights must be used and properly positioned so that all portions of the pool are clearly visible to an observer on the pool deck. Fiberoptic lighting may only be installed as a supplement to the minimum lighting requirements outlined above. Colored lights that do not provide for an equivalent light output to the wattage or lumens noted above for clear lights cannot be used.

(b) Area Lighting. Where underwater lighting is used, uniform area lighting must be provided for the deck area and directed toward the deck area and away from the pool surface insofar as practical. Illumination of the pool deck surface must be at least ten (10) foot candles of intensity, or not less than 0.6 watts of incandescent light or 10 lumens per square foot. Where underwater lighting is not used and night swimming is permitted, uniform area lighting must be provided in an amount of not less than thirty-two (32) foot candles of intensity, or not less than two (2) watts of incandescent light or 33.5 lumens per square foot of pool area in addition to 0.6 watts of incandescent light or ten (10) foot candles of intensity per square foot of deck area. These lights must be placed around the pool area such that all sections and depths of the pool are clearly visible at all times. Light fixtures located within the pool area must be protected by a non-breakable lens.

(c) Overhead Conductors, Wiring and Lights.

(i) Overhead conductors and wiring not in conduit must not pass within an area extending a distance of twenty (20) feet horizontally away from the inside edge of the pool walls, diving structures, observation stands, towers, or platforms. No pool can be constructed under an existing utility owned supply conductor in accordance with the current edition of the National Electrical Safety Code.

(ii) There shall be no light fixtures or conductor splices directly above the water surface at any outdoor pool. Indoor pools must comply with the same restriction except that light fixtures protected by a non-breakable lens are allowed.

(d) Wiring and grounding for lights and all electrical power for swimming pool equipment must conform with the codes of the current edition of the National Fire Protection Association National Electric Code. Ground fault protection shall be provided on all electrical circuits within the pool area including all accessory equipment, electric drinking water fountains, and bathhouse/minimum toilet facility receptacles. Junction boxes must be above the pool water level and must not be a trip hazard.

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32. Instructions For Operation.

(a) The specifications and/or plans for all public swimming pools must include the provision that upon completion of any swimming pool, the builder must give the owner and his operators complete written and oral instructions in the operation of the pool and all equipment, in the chemistry of swimming pool water and specific details covering the maintenance of the equipment. Also, these instructions and provisions must consist of the operation of the entire facility under the builder's observation for a minimum of three (3) days. All valves must be permanently tagged and identified as to use and a valve operating schedule must be provided for every operation.

(b) Instructions, including the valve schedule, must be supplied in not less than two (2) copies. These must be encased in a water proof covering with one (1) copy permanently posted on the equipment room wall.

33. Equipment Acceptance. Any equipment to be used in public swimming pools must be approved by the National Sanitation Foundation Testing Laboratory, Inc., Ann Arbor, Michigan, or other laboratories acceptable to the Department, where applicable.

34. Swimming and Deck Limits.

(a) The total number of persons which can safely utilize a swimming pool facility shall be based upon the sum of the following areas:

(i) Swimming Area. (The area between the transition point and the diving area) One (1) person for each twenty-five (25) square feet of surface area.

(ii) Shallow Area. One (1) person for each ten (10) square feet of surface area.

(iii) Deck Area. One (1) person for each thirty-three (33) square feet of the required minimum deck area.

(iv) Type "D" Pools. One (1) person for each ten (10) square feet of surface area.

(b) The pool capacity determination is not applicable for Type "C" and "E" pools.

(c) Diving Area. An area extending a ten (10) foot radius from the extremity of a diving board or tower will be considered as reserved for divers, and not more than one (1) person shall be permitted in the water in this area at any time diving is in progress. Only one (1) person is allowed on any diving board at one time.

35. Steps and Ladders. At least one (1) ladder/steps must be provided for each seventy-five (75) feet of pool perimeter. Two (2) or more ladders/steps must be provided for all Type "A" and "B" pools. All ladders must have a minimum of three (3) tread design and must include treads of non-slip construction. Steps shall have a minimum tread width of twelve (12) inches, a maximum rise of eleven (11) inches and a minimum length of thirty (30) inches. When radial steps are to be constructed, the minimum standards are shown in figures 1, 2 and 3 as follows. All steps shall be non-slip and constructed in the shallow end of the pool only. Permanent black or dark colored edge stripes such as tile must mark steps. The edge stripe must be a minimum of two (2) inches wide, must be provided the entire length of each step, must be non-slip in texture, and must be installed on the run of each step so as to be clearly visible by patrons upon entering the pool. Where steps are used, a minimum of one (1) handrail must be installed. All handrails must be securely anchored, extend over and anchor into the bottom step, and be easily accessible for exiting the pool. No figure four type handrails may be installed. Steps over ten (10) feet in width shall have one (1) additional handrail for every ten (10) feet of step width or major fraction thereof and they shall be evenly spaced. Handrails must be of the removable type. Step edge markers must be non-slip. Ladders and handrails shall be designed so as to be secured tightly in place when the pool is in operation unless they are removed for certain aquatic events. Grab rail recess step type ladders can be used in lieu of the standard three (3) tread ladder.

RADIAL POOL STEPS

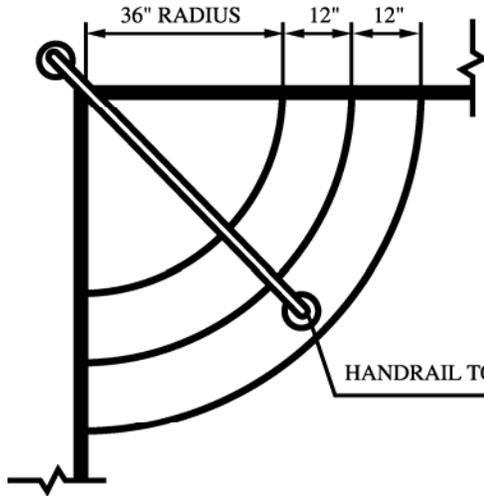


Figure - 1

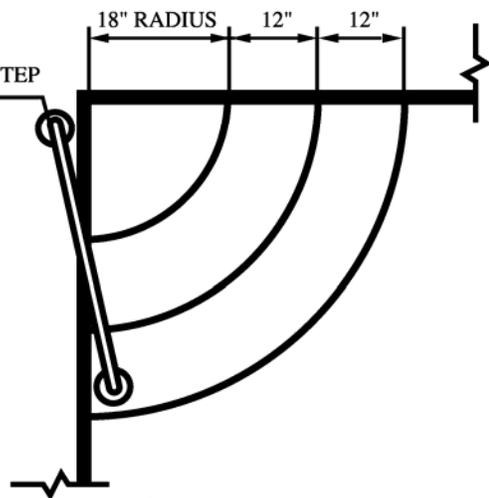


Figure - 2

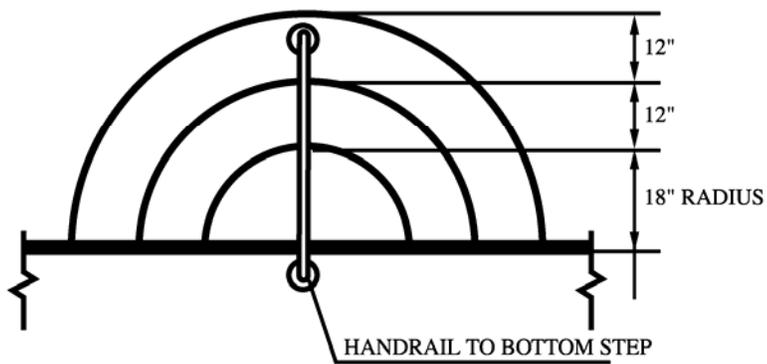


Figure - 3

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36. Construction Variance. When a pool contractor desires to use a construction procedure inconsistent with the regulations or use materials and/or equipment other than specified in these regulations a variance may be requested from the Department. Such a request must be submitted in writing and shall include a description of the material(s), equipment, and/or construction procedure(s) proposed, identify the material, equipment and/or procedure required by the regulation, and include proof of equivalency. This request for a variance will be considered by the Department for approval. The Department's decision on such a variance will be final.

37. Bridges. Bridges over the pool shall be built so that they will not introduce any contamination to the pool water. The minimum height of the bridge shall be at least seven (7) feet from the bottom of the pool and at least four (4) feet above the surface of the pool. Minimum forty-two (42) inch high handrails shall be provided along each side of the bridge. The walking surfaces shall be constructed of concrete or nonabsorbent material having a non-slip finish. A sign must be posted at both ends of any bridge crossing over a pool stating in all capitalized letters "NO DIVING OR JUMPING FROM BRIDGE ALLOWED". This sign must be clearly visible to anyone walking over the bridge.

38. Portable Kiddie Slides. Portable slides must comply with the requirements of Section G Paragraph 1, Section G Paragraph 2, Section G Paragraph 3(a), 3(b), 3(d)(vi), 3(d)(vii), 3(e)(ii), and 3(e)(iii). Portable slides are only allowed in Type "A" and "E" pools.

(a) The distance between the slide exit and the opposite side of the landing pool or other obstructions shall be a minimum of fifteen (15) feet.

(b) The slide must terminate no more than two (2) inches above the water surface and cannot terminate on an angle.

(c) Potable water supplies for wet slides shall be protected by proper backflow prevention and any piping or hose shall not be a trip hazard.

(d) Portable slides must be secured when not in use or when an attendant is not available.

(e) Where applicable or recommended by the manufacturer, it may be necessary to secure the slide to the deck with anchor bolts or other suitable mounting hardware.

D. PUBLIC SWIMMING POOL DESIGN REQUIREMENTS FOR TYPE "A" AND "B" POOLS

1. Applicability. Requirements of this section are applicable to all new construction and alterations of existing public swimming pools.

2. Pool Depths.

(a) The depth in the shallow portion must begin at three (3) feet and slope uniformly toward the deepest point of the pool. This slope will be measured from the base of the entrance steps to the deepest point of the pool or to the transition point.

(i) Where a pool is constructed with a maximum depth of five (5) feet, six (6) inches or less, the bottom must slope uniformly at a maximum of one (1) foot vertical to ten (10) foot horizontal and no lifeline is required.

(ii) Where the maximum pool depth exceeds five (5) feet, six (6) inches there shall be a lifeline between the shallow and the deep end which must be located at a point across the pool one (1) to two (2) feet on the shallow side of the transition point. Where there is no transition point, the lifeline must be at the four (4) foot, six (6) inch depth. The pool must have a uniform slope from shallow end to the slope transition point; and the slope must not exceed one (1) foot vertical to ten (10) feet horizontal.

(b) Lifelines. The lifeline must be made of polyethylene or nylon rope with floats made of soft plastic or cork placed at not more than five (5) foot intervals. The lifeline must be minimum three-fourth (3/4) inches diameter and have floats at least five (5) inches by six (6) inches in size.

(c) Transition Point. Where the maximum pool depth exceeds five (5) feet, six (6) inches a permanent non-slip black or dark color tile stripe must be incorporated in the floor and the walls of the pool to mark the slope transition point. This tile stripe must be a minimum four (4) inches and a maximum six (6) inches wide and located at a point across the pool one (1) to two (2) feet on the shallow side of the transition point. Where there is no change in slope this line must be placed at the four (4) foot, six (6) inch depth.

(d) Zero-Depth Entry Pools. Zero-Depth entry pools are allowed in Type "A" and "B" pools only when a lifeline is placed at the two (2) to three (3) foot depth and a breakline tile stripe meeting the requirements of Section D Paragraph 2(c) is placed at the four (4) foot depth.

(i) In addition to surface skimmers or perimeter gutter system, Zero-Depth entry pools must have a gutter or trench with a grate cover installed along the zero depth area at an elevation which allows effective skimming at the trench at all times. This type of design may require a collection/surge tank.

(e) Diving Boards. At least thirteen (13) feet of unobstructed vertical distance must be maintained above any diving board. This thirteen (13) foot height must extend eight (8) feet to each side and twenty (20) feet ahead of the front end of the board. In case of multiple diving boards, the above vertical distance must be provided for each board. Where diving is permitted, minimum depths of pools and clearances for various pool elements must be as shown in the following diagrams and tables (following Section D(2)(j)). Pool widths must be a minimum of eighteen (18) feet throughout the diving section.

(f) Depths and Clearances. The depths and clearances shown in the chart must be used as the basis for determining the safety features of pools which are not rectangular in shape. Cross-sectional diagrams must be given so that minimum depths and clearances may be determined for pools of non-rectangular shape; a minimum of one (1) longitudinal and one (1) latitudinal cross-sectional diagram must be given for all pools. Where a pool is built to permit diving, but has no diving board installed, diving is permitted only at the point on the deep end where a board would be installed. This point must be marked on the pool coping with the lettering "Diving permitted from this point only." The lettering shall be a minimum of 4" high and shall be marked on the deck or coping at a maximum of 12" from the pool edge.

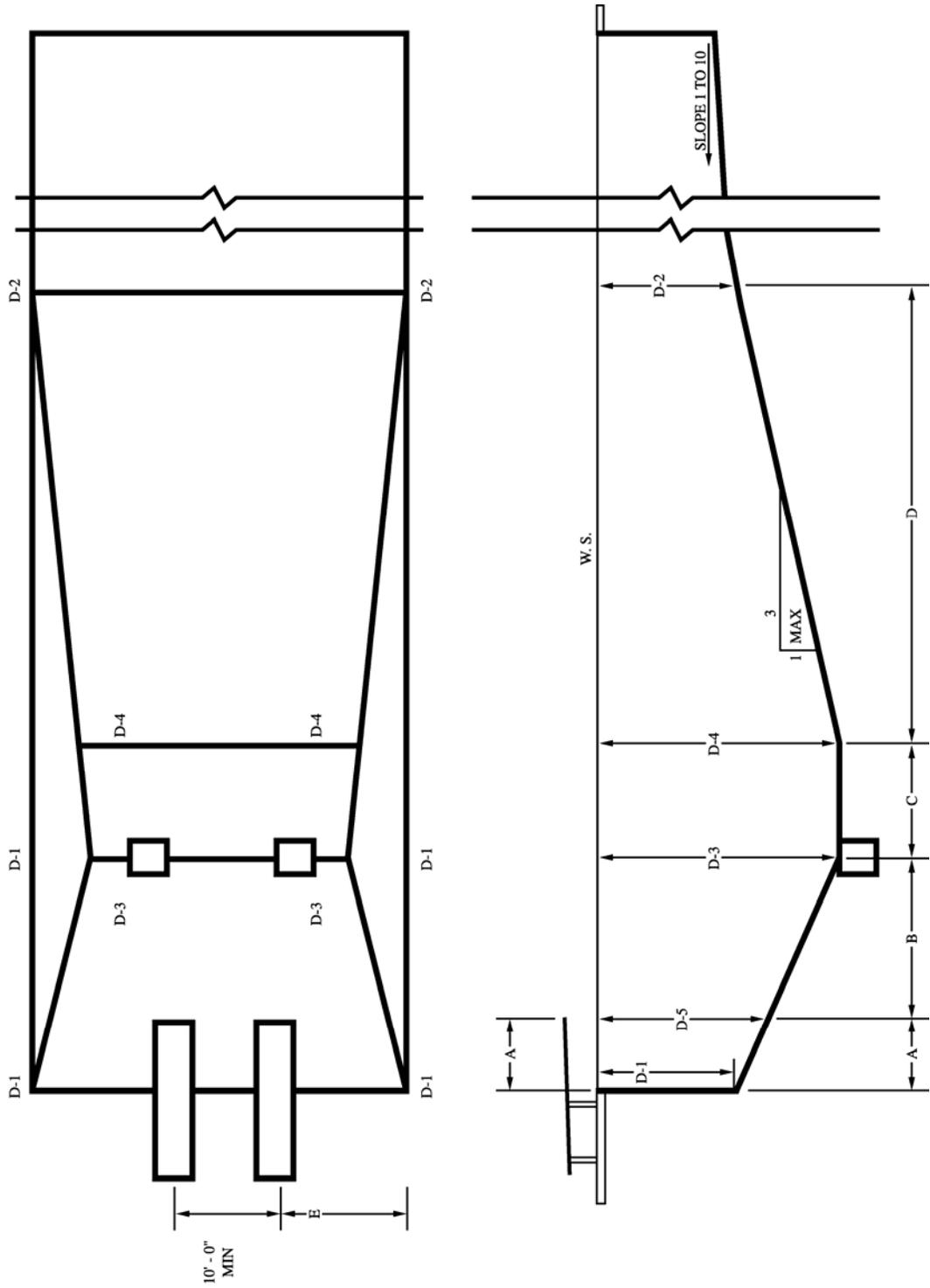
(g) Walls, Ledges, and Islands. All walls must be vertical. No ledges are permitted inside the main pool body. Islands and walkways are allowed inside the main pool body provided that they are above the normal water level and extend to the bottom of the pool floor.

(h) Seats. Seats may be allowed in the shallow portion of the pool in water depths of four (4) feet or less if completely recessed from the main body of the pool. Recessed shall mean thirty six (36) inches back from the main pool body and not contiguous to any steps. The seat shall be eighteen (18) inches wide and eighteen (18) inches shall be for leg room. The maximum water depth over the seat shall not exceed twenty (20) inches. The front edge of the seat must be marked with a black or dark colored, non-slip tile a minimum of two (2) inches wide. A non-slip tile reading "NO STEP" shall be placed on the seat (1 1/2 inch lettering) and correspondingly on the deck (1 1/2 inch lettering) with no more than five (5) feet between signs if the seat is wider than ten (10) feet, otherwise the "NO STEP" sign shall be placed in the middle of the bench.

(i) The depths of the shallow portion of a pool with racing lanes which are intended to be used for lap swimming may be increased to 3 1/2 feet or 4 feet. The racing lanes must be marked in black tile or dark colored tile. This tile shall be non-slip. The tile lanes must be a minimum of six (6) inches wide and a maximum of twelve (12) inches wide.

(j) Construction tolerances shall be within + or - 3 inches of design for overall pool length, width, or depth.

Pool Specifications



DEPTH – MINIMUM

Stands & Boards Maximum Height to Water	D-1	D-2	D-3	D-4	D-5
3-Meter Board	6'-0"	4'-6"	12'-6"	12'-0"	12'-0"
1-Meter Board	6'-0"	4'-6"	10'-6"	10'-0"	10'-0"
Deck Level Board (Less than 26")	6'-0"	4'-6"	9'-0"	8'-6"	8'-6"
No Board	6'-0"	4'-6"	8'-6"	8'-0"	8'-0"
No Diving Pool	3'-0"	≥3'-0"	≥3'-0"	≥3'-0"	≥3'-0"

LENGTH OF SECTION - MINIMUM

Stands & Boards Maximum Height to Water	A	B	C	D	E
3-Meter Board	5'-0"	6'-0"	9'-0"	23'-0"	13'-0"
1-Meter Board	5'-0"	6'-0"	9'-0"	17'-0"	11'-0"
Deck Level Board (Less than 26")	2'-6"	6'-0"	7'-6"	12'-0"	9'-0"
No Board	-	6'-0"	6'-0"	12'-0"	-
No Diving Pool	-	-	-	-	-

D-1 shall be no farther out than a maximum of 15" from pool wall. Slope of D shall not exceed 1'- 0" vertical to 3'- 0" horizontal. The maximum values of A are 6'- 0" for 1-Meter and 3-Meter boards and 4'- 0" for deck level boards. Clearance above the board must extend the entire length of sections B, C and D. Depth D-5 is measured at midpoint of Section B where a diving board is not provided. Where a diving board is provided D-5 shall be measured from the tip of the board. The minimum distance between the diving well wall on the deep end and any opposite wall shall not be less than six (6) feet greater than the diving bowl dimensions (B, C and D). All diving boards that are placed at a height above water between those listed shall be made to comply with the listing that is greatest, e.g. 34" board shall comply with the one meter board height above water. Shallower water depths of 3 1/2 feet or 4 feet will be considered for pools with racing lanes that will be used for competitive swimming and diving from stands.

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3. Diving Towers, Stands, and Sliding Boards. Diving towers in excess of three (3) meters in height are not to be considered as acceptable in a public swimming pool without special provisions, controls and limitations on their use. No sliding boards are allowed in any Type "B" pool. All diving stands (starting blocks) installed at pools with racing lanes must be of the removable type.

4. Recirculation System.

(a) A recirculation system consisting of pumps, motors, piping, filters, inlets, outlets, disinfecting and other water conditioning equipment and necessary accessories must be provided for water purification in accordance with water quality criteria contained herein and must be designed to completely turnover the entire pool volume per the following schedule:

(i) Type "A" six (6) hours

(ii) Type "B" six (6) hours; except Type "B" lazy rivers under sixty-thousand (60,000) gallons which shall have a turnover time of four (4) hours

(b) The recirculation system shall be designed to operate on a twenty-four (24) hour basis. The normal pattern of recirculation developed must be fifty (50) percent flow through the overflow or skimming facilities and fifty (50) percent through the main drains. The recirculation system must be designed with adequate capacity such that one hundred (100) percent of the recirculation flow can pass through the overflow or skimming facilities and one hundred (100) percent through the main drains.

5. Vacuum Lines. No vacuum outlets less than six (6) inches or more than eighteen (18) inches below the normal operating water level will be allowed. The measurement will be from the center of the vacuum outlet fitting to the water surface. If skimmer vacuum attachment is used, this requirement does not apply.

6. Pool Deck. The pool deck must be constructed in accordance with Section C, Paragraph 6.

E. DESIGN REQUIREMENTS FOR TYPE "C" POOLS

1. Applicability. Requirements of this section are applicable to all new construction and alterations of existing public swimming pools.

2. Type "C" Pools. In addition to meeting all other applicable requirements of these regulations as found in Section C, Type "C" pools must also meet the following: There must be a minimum of two (2) inlets and two (2) main drains and at least one (1) surface skimmer positioned and operated in accordance with Section C, Paragraph 26(b) above. When only one (1) skimmer is provided and the equalizer outlet is installed on the pool floor, it must be equipped with a minimum of two (2) interconnected suction fittings spaced at least twelve (12) inches apart. The interconnecting line must be sized to accommodate one hundred (100) percent of the recirculation flow. Main drains shall be located on the pool bottom floor. Inlets and outlets must be provided and arranged to produce complete recirculation of pool water and the maintenance of a uniform and adequate level of disinfecting medium at all times. Type "C" pools must be provided with a means of completely draining the contents of the pool to waste without passing through the filter. This may be done by a gravity waste line directly from the pool or by pumping and by-passing the filter. The maximum depth for a wading pool shall be eighteen (18) inches at the center. The bottom must have a minimum slope of not less than one-fourth (1/4) inch per foot (nor maximum of more than five-eighths (5/8) inch per foot) toward waste outlets or main drains. The depth at the perimeter may be zero (0) feet.

3. Spray Pools. In a spray pool, water must drain away freely as it sprays over the area. Water quality, wall and floor construction must meet the same requirements as set forth for public swimming pools. The bottom must have a minimum slope of not less than one-fourth (1/4) inch per foot (nor maximum of more than five-eighths (5/8)

inch per foot) toward waste outlets. No obstruction less than four (4) feet in height, such as raised drains, steps, or gadgets, on which children may fall or become injured, may be placed in the spray pool area.

4. Recirculation System. A recirculation system consisting of pumps, motors, piping, filters, inlets, outlets, disinfecting and other water conditioning equipment and necessary accessories must be provided for water purification in accordance with water quality criteria contained herein and must be designed to completely turnover the entire pool volume in one (1) hour. The recirculation system shall be designed to operate on a twenty-four (24) hour basis. The normal pattern of recirculation developed must be fifty (50) percent flow through the overflow or skimming facilities and fifty (50) percent through the main drains. The recirculation system must be designed with adequate capacity such that one hundred (100) percent of the recirculation flow can pass through the overflow or skimming facilities and one hundred (100) percent through the main drain.

5. Pool Deck. The pool deck must be constructed in accordance with Section C, Paragraph 6.

6. Sliding Boards. No sliding boards are allowed in any Type "C" pool.

7. Steps. If installed, one set of steps designed in accordance with Section C, Paragraph 35 shall be provided.

8. Fill Line. Kiddie pools may be filled by a hose bibb protected by an ASSE 1024 listed residential dual check or other Department approved backflow prevention device.

9. Automatic Controllers. All new Type "C" pools must be equipped with automatic controls to provide adequate feed rate of halogen and pH adjustment chemicals in order to keep the disinfectant and pH at the required levels on a continuous demand basis. A warning light or indicator shall be provided in a visible location for supervisory control. The device shall indicate absence of chemicals in feeders, improper adjustment of chemical dosage, or any other mechanical or operational malfunctions, e.g. recirculation flow stops.

F. DESIGN OF TYPE "D" POOLS

1. Applicability. Requirements of this section are applicable to all new construction and alterations of existing public swimming pools.

2. Type "D" Pools. In addition to meeting all other applicable requirements of these regulations as found in Section C, including steps and handrails, except where fiberglass spas are used, figure four handrails may be acceptable provided they extend over the last step. Type "D" pools must also meet the following: There must be a minimum of two (2) inlets, two (2) main drains to be located on the pool bottom floor and at least one (1) surface skimmer or gutter system positioned and operated in accordance with Section C, Paragraph 26. All drains providing water to the booster system must be located on the pool bottom floor. Inlets and outlets must be provided and arranged to produce complete recirculation of pool water and the maintenance of a uniform and adequate level of disinfecting medium at all times. The maximum depths for Type "D" pools shall be four (4) feet. Type "D" pools must be provided with a means of completely draining the contents of the pool to waste without passing through the filter. This may be done by a gravity waste line directly from the pool or by pumping and by-passing the filter. All Type "D" pools must have a single timer set for a maximum of 15 minutes which must turn on and off the hydro pump and blower if provided. This timer switch must be inaccessible to persons while in the spa. An emergency cut-off switch must be provided in the pool area which, when triggered, will simultaneously shut off the spa booster and recirculation pumps. This switch must be clearly visible, labeled, easily accessible at all times, and no greater than a twenty five (25) foot distance from the entrance steps of the spa. The top front edge of seats must be marked with a black or dark colored stripe in accordance with Section D, Paragraph 2(h). No sliding boards are allowed in Type "D" pools.

3. Recirculation System.

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(a) A recirculation system consisting of pumps, motors, piping, filters, inlets, outlets, disinfecting and other water conditioning equipment and necessary accessories must be provided for water purification in accordance with water quality criteria contained herein and must be designed to completely turnover the entire pool volume per the following schedule based upon pool volume:

- (i) Up to one thousand and five hundred (1,500) gallons: one-half (1/2) hour.
- (ii) One thousand and five hundred (1,500) gallons up to four thousand (4,000) gallons: one (1) hour.
- (iii) Four thousand (4,000) gallons up to eight thousand (8,000) gallons: two (2) hours.
- (iv) Eight thousand (8,000) gallons up to sixteen thousand (16,000) gallons: four (4) hours.
- (v) Over sixteen thousand (16,000) gallons: six (6) hours.

(b) The recirculation system shall be designed to operate on a twenty-four (24) hour basis. The normal pattern of recirculation developed must be fifty (50) percent flow through the overflow or skimming facilities and fifty (50) percent through the main drains. The recirculation system must be designed with adequate capacity such that one hundred (100) percent of the recirculation flow can pass through the overflow or skimming facilities and one hundred (100) percent through the main drain.

4. Pool Deck. The pool deck must be constructed in accordance with Section C, Paragraph 6.

5. Pool Temperatures. For heated pools a thermostat control must be provided with an automatic cut-off for an upper limit of 104 degrees Fahrenheit and above.

6. Automatic Controllers. All new Type "D" pools shall be equipped with automatic controls to provide adequate feed rate of halogen and pH adjustment chemicals in order to keep the disinfectant and pH at the required levels on a continuous demand basis. A warning light or indicator shall be provided in a visible location for supervisory control. The device shall indicate absence of chemicals in feeders, improper adjustment of chemical dosage, or any other mechanical or operational malfunctions, e.g. recirculation flow stops.

G. DESIGN OF TYPE "E" POOLS

1. Applicability. Requirements of this section are applicable to all new construction and alterations of existing public swimming pools.

2. Type "E" Pools. In addition to all other applicable requirements of these regulations found in Section C, Type "E" pools must also have a recirculation system for filtering and disinfecting the water used, except as may be justified to and found acceptable by the Department.

3. Waterslides and Flumes.

(a) The slopes and radii of each flume and flume section must be acceptable to the Department. Each flume must be properly banked when used in any curved section; regardless of degree of curvature. Each flume must be designed to enter the landing pool in a safe manner. The landing pool must be of dimensions suitable to prevent accidental collision between users and/or walls. It may be necessary to obtain a certified inspection permit from the South Carolina Department of Labor if the law so provides for same.

(b) All sections of a flume must be properly formed and sealed together so as to prevent possible abrasions or injuries, i.e., no protrusions or gaps between sections. All protruding edges need to be deburred and polished so that there will be no cutting, pinching, puncture, or abrasion hazards. The permit for this type of facility will be invalidated, unless a good safety record is maintained.

(c) Details on submission of plans for waterslides must include:

(i) Detailed layout of the flumes indicating elevations, slopes, lengths of sections, and radius of each curve in the flumes.

(ii) Detailed cross sectional views of the flume on a straight away and going into all curves. The average water depth must be indicated.

(iii) Structural details of starting pools, flumes, landing pools, and if applicable, surge pools.

(iv) Total water volume for the whole waterslide facility.

(v) Top and profile views of the starting pool.

(vi) Top and profile views of the surge pool if applicable.

(vii) Top and profile views of the landing pool to include all equipment and applicable equipment spacing with all dimensions given or drawn to scale.

(d) Flume Design Criteria:

(i) The overall average slope of a flume shall conform to the design criteria of the recommendations of the World Water Park Association.

(ii) The slope of each flume section shall conform to the design criteria of the recommendations of the World Water Park Association.

(iii) Each flume shall be properly banked when used in any curved section; regardless of the degree of curvature. This is to properly ensure that the slider's body will remain within the flume.

(iv) Test runs down each channel shall be conducted to ensure its safety prior to formally opening the facility.

(v) A detailed engineering analysis of the flume structure must be submitted by the engineer assuming responsibility for the facility to ensure the strength and integrity of the material and structure under all circumstances.

(vi) Distance between the side of a flume exit and a landing pool wall shall be a minimum of five (5) feet.

(vii) Distances between sides of adjacent flume terminuses shall be a minimum of six (6) feet.

(viii) The distance between a flume exit and the opposite side of the landing pool or other obstruction(s) shall be a minimum of twenty (20) feet.

(ix) Flumes shall terminate a maximum of two (2) inches above the water surface and the flume must be level for a minimum distance of ten (10) feet from the flume's end. Flumes cannot terminate at an angle.

(x) Safe entry into the landing pool shall be provided through a deceleration distance of at least twenty (20) feet.

(e) In addition to requirements for public swimming pools the following must also be met:

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(i) A one hour filter turnover time is required.

(ii) Where night use is allowed, area lighting of at least two (2) watts per square foot of deck area shall be provided at the landing pool, along the slide, and at the starting pool.

(iii) Adequate supervision of all slide flumes entry and exit points must be provided.

(f) All items not covered above with regard to Type "E" Pools shall use the current edition of the World Waterpark Association "Consideration For Operating Safety" as guidelines.

4. Lazy Rivers. Lazy rivers with volumes of 60,000 gallons or greater shall have a minimum turnover time of six (6) hours. Those with volumes less than 60,000 gallons shall have a minimum turnover time of four (4) hours.

5. Wave Pool, Activity Pools and Kiddie Play Parks. Wave and activity pools with volumes of 60,000 gallons or greater shall have a minimum turnover time of six (6) hours. Those with volumes less than 60,000 gallons shall have a minimum turnover time of four (4) hours. Kiddie Play Parks shall have a minimum turnover time of one (1) hour.

6. Recirculation System. A recirculation system consisting of pumps, motors, piping, filters, inlets, outlets, disinfecting and other water conditioning equipment and necessary accessories must be provided for water purification in accordance with water quality criteria contained herein and must be designed to completely turnover at the rate required in Paragraphs 4 and 5 above. The recirculation system shall be designed to operate on a twenty-four (24) hour basis. The normal pattern of recirculation developed must be fifty (50) percent flow through the overflow or skimming facilities and fifty (50) percent through the main drains. The recirculation system must be designed with adequate capacity such that one hundred (100) percent of the recirculation flow can pass through the overflow or skimming facilities and 100 percent through the main drain. Waterparks may have several pools on one (1) main recirculation system provided it is proven to the Department that each pool meets the required turnover rate and the Department finds the overall design acceptable.

7. Automatic Controllers. All new Type "E" pools with water volumes of 1,500 gallons or less, shall be equipped with automatic controls to provide adequate feed rate of halogen and pH adjustment chemicals in order to keep the disinfectant and pH at the required levels on a continuous demand basis. A warning light or indicator shall be provided in a visible location for supervisory control. The device shall indicate absence of chemicals in feeders, improper adjustment of chemical dosage, or any other mechanical or operational malfunctions, e.g. recirculation flow stops.

8. Pool Deck. The pool deck must be constructed in accordance with Section C, Paragraph 6.

H. DESIGN OF TYPE "F" POOLS

1. Applicability. Requirements of this section are applicable to all new construction and alterations of existing public swimming pools.

2. Section C Applicable. In addition to meeting all other applicable requirements of these regulations as found in Section C, Type "F" pools must also meet the following requirements of this section.

3. Recirculation System.

(a) A recirculation system consisting of pumps, motors, piping, filters, inlets, outlets, disinfecting and other water conditioning equipment and necessary accessories must be provided for water purification in accordance with water quality criteria contained herein and must be designed to completely turnover the entire pool volume in six (6) hours.

(b) The recirculation system shall be designed to operate on a twenty-four (24) hour basis. The normal pattern of recirculation developed must be fifty (50) percent flow through the overflow or skimming facilities and fifty (50) percent through the main drains. The recirculation system must be designed with adequate capacity such that one hundred (100) percent of the recirculation flow can pass through the overflow or skimming facilities and one hundred (100) percent through the main drain.

4. Automatic Controllers. All new Type "F" pools with water volumes of 1,500 gallons or less, must be equipped with automatic controls to provide adequate feed rate of halogen and pH adjustment chemicals in order to keep the disinfectant and pH at the required levels on a continuous demand basis. A warning light or indicator shall be provided in a visible location for supervisory control. The device shall indicate absence of chemicals in feeders, improper adjustment of chemical dosage, or any other mechanical or operational malfunctions, e.g. recirculation flow stops.

5. Pool Deck. The pool deck must be constructed in accordance with Section C, Paragraph 6.

I. EQUIPMENT CHANGES AND ALTERATIONS

1. Applicability. All public swimming pools, no matter when constructed, must comply with the requirements of this section. A change order is required for any equipment or structural modification which is not an identical replacement for the originally approved design. All change order requests must be approved by the Department in writing prior to commencement of work. The request must be made using the Swimming Pool Change Order Request Form.

2. Structural Changes. In addition to a change order request, plans and specifications detailing any proposed alteration or modification requiring structural changes that affect the shape or structural components of a public swimming pool must be submitted following the requirements of Section B of these requirements, including submission of the appropriate fee.

3. Equipment Changes. Written notification detailing any proposed equipment changes which do not conform to original approved specifications must be submitted to the Department in writing on an approved change order request form. The request must be approved by the Department before any equipment can be installed on any public swimming pool. Equipment must comply with the requirements of Section C of these regulations.

4. Pump and Filter Changes. If proposed equipment changes involve the pump and filter, reasonable effort must be made to comply with the turnover rates specified in these regulations. Equipment room piping must be upgraded where necessary to meet these regulations when replacing both the pump and filter.

5. Deck Changes. A change order request must be submitted detailing the proposed work. If replacing existing decking, painting or resurfacing, the new decking must comply with applicable portions of Section C, Paragraphs 6 and 7. Temporary pool enclosures may be installed with prior Department approval provided that they do not hinder or limit access by emergency personnel and minimum deck widths are maintained. Adequate lighting must be provided if the facility will be used for night swimming.

6. Pool Resurfacing and Painting. A change order request must be submitted stating the type of material and color to be used. The Department may request manufacturer's literature and specifications for new or non-conventional products. The work must meet the applicable portions of Sections C, D, E, F, G, and H.

7. Piping Changes. A change order is required for piping changes beyond routine repair. In addition to a change order request, plans and specifications detailing any proposed alteration requiring piping changes that affect the location or pipe size of the overall recirculation system or a major fraction of the system of a public swimming pool must be submitted following the requirements of Section B of this regulation, including submission of the appropriate fee. When replacing pipe, a reasonable effort must be made to comply with applicable portions of Section C, Paragraph 24.

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8. New Construction. Changes to new construction prior to completion must be approved by change order prior to any inspection. As-built drawings meeting the requirements of Section B must be approved by the Department prior to the final inspection.

9. Slides. The addition of slides to a previously approved pool will be permitted by:

(a) General change order when the slide is considered portable and intended only for children.

(b) Revised plans and specifications requiring a complete submittal in accordance with Section B when the installation will be permanent or have significant structural components.

10. Other Changes. All other changes from the originally permitted plans, specifications, or previously approved change orders must comply with these regulations where applicable.

J. OPERATION AND MAINTENANCE FOR ALL TYPE POOLS

1. Applicability. All public swimming pools, no matter when constructed, must comply with requirements of this section. All pools and pool equipment must be operated and maintained in accordance with the permitted plans and specifications or approved change order.

2. Operating Permits. No pool may operate without a valid operating permit. Operating permits are valid for a period of one (1) year beginning on April 1, and ending on March 31 of any calendar year. Operating permit fees are due by February 15 of each calendar year and are considered delinquent if not received by March 15th of each calendar year. The current operating permit must be prominently displayed at the pool on or near the pool rules sign.

3. Address and Ownership Changes. It shall be the owner's responsibility to notify the Department in writing of any address or ownership changes.

4. Housekeeping.

(a) The bathhouse and minimum toilet facilities must be kept clean with the floors and walls cleaned as often as necessary to maintain good sanitary conditions and kept as dry as possible. Showers must be scrubbed at least daily and proper disinfectant applied to the floors. All plumbing fixtures must be kept in good operating condition. Toilet paper and soap must be available in the dispensers at all times the pool is open. If public towels are provided, these towels must be laundered after each use. The pool, including walkways, diving boards, ladders, etc., must be kept clean. The surrounding grounds must be kept free of trash and litter. All pools must have a trash receptacle at the pool site.

(b) No glass of any kind or any other material that may be a hazard to bathers' feet or bodies will be allowed in the pool area. No furniture constructed with glass components may be located within the pool area.

5. Water Supply. All water used in public swimming pools, drinking fountains, bathhouse, or minimum toilet facilities, must be from a Public Drinking Water System which has been approved by the Department.

6. Drinking Water Fountain. Drinking water fountains, where installed, must be properly maintained. All electric drinking fountains must be equipped with ground fault interrupters.

7. Sanitary Sewage. The disposition of sanitary sewage from the bathhouse or minimum toilet facilities must be into a sanitary sewer, a septic tank, or other waste treatment facility which has been approved by the Department.

8. **Equipment Enclosure.** An enclosure must be provided to prevent unauthorized access to pool equipment. The structure shall protect the equipment from vandalism. This enclosure must be of adequate height and size to enable required equipment maintenance and designed to drain away excess water. It must be adequately illuminated and ventilated. The equipment enclosure room is to be used specifically for storage of equipment for pool circulation, filtration, and cleaning.

9. **Recirculation System.** The recirculation system must be operated on a twenty-four (24) hour basis during the swimming season unless it can be demonstrated by the owner or his/her designated agent that water quality can be maintained with fewer hours of operation. The recirculation system must be operated during posted pool hours.

10. **Accidents.** Any death, injury, or accident requiring an EMS response, an emergency room visit, or hospitalization must be reported by the owner or his/her designated agent in writing to the Department within seventy-two (72) hours of the occurrence.

11. **Safety Precautions.**

(a) One or more lifeguards shall be on duty for each two-thousand (2,000) square feet of pool area or major fraction thereof during operation hours at Type "A" and "E" pools. Lifeguards must have their current certifications present while on duty. Lifeguards, when on duty, shall have no other duty but to supervise the swimmers.

(b) Type "A" and "E" pools must be locked when not under supervision. All pools should be locked when not open for patrons.

(c) Each Type "E" facility must provide attendants during operation of the facility to control the spacing and number of patrons utilizing each ride and to ensure and maintain the safe egress of all sliders out of the landing pool.

(d) At least one unit of life saving equipment must be readily accessible and functional during posted pool hours (within twenty-five feet of the pool, inside the fence). Life saving equipment is not required for Type "C" and "D" pools. Shepard's crook and life ring are not required for Type "A" and "E" pools if rescue tubes are provided.

(e) For all Type "A" and "E" pools one unit of emergency equipment must be readily accessible and functional during posted pool operating hours.

(f) All pools must have a first aid kit. This kit must be readily accessible during posted pool hours.

(g) A toll free telephone or other emergency notification device to notify emergency personnel must be available in the pool area (within two hundred (200) feet of pool entrance). The location of the toll free telephone or emergency notification device must be specified on the pool rules sign.

(h) Signs in accordance with Section C, Paragraph 28 must be posted in a conspicuous place in the pool area for all pools. A single sign used for multiple pools must be clearly visible from each body of water.

(i) All diving ladders, diving boards, and handrails must be maintained in a safe condition. Handrails and ladders must be rigidly secured while the pool is in operation and must comply with Section C, Paragraph 35.

(j) The lifeline must be maintained in good condition and must be kept in place except when lap swimming or routine maintenance is conducted. The lifeline must conform to the requirements listed in Section D, Paragraph 2(b).

(k) All removable diving stands must be removed when not in use.

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(l) Any automatic vacuum systems must be removed from the pool during the hours the pool is open to the general public. In-floor cleaning systems must not be in operation during hours that the pool is open.

12. Swimming Limit. The swimming limits are determined in accordance with Section C, Paragraph 34 and must be posted on the pool rules sign.

13. Water Clarity. The water must be sufficiently clear to plainly view the main drains from the deck of the pool at all times when the pool is open. The viewer must be able to clearly distinguish the type, shape, and number of gratings (openings) of the main drains when standing at the edge of the pool deck nearest that main drain.

14. Water Quality.

(a) A test kit must be available at all times. This kit's condition must allow for accurate readings of free chlorine, bromine, pH, and cyanuric acid, if used.

(i) The DPD method or methodology approved either by the USEPA or the current edition of *Standard Methods* must be used to obtain free chlorine/bromine levels.

(ii) Samples for water quality testing shall be obtained at poolside.

(b) The following levels must be maintained for all pools:

Chlorine	1 to 5 ppm free chlorine
Bromine	2.3 to 11.0 ppm
pH	7.2 to 7.8

(c) All outdoor pools using chlorine may be stabilized with cyanuric acid. When used, the cyanuric acid level must not exceed two hundred (200) parts per million. Indoor pools need not be stabilized.

(d) There will be no hand feeding of chemicals while the pool is open for swimming. The pool shall remain closed until all chemicals have fully dispersed and required chemical levels are within Department approved limits.

(e) In all cases of biological or chemical contamination of the pool water, the pool shall be immediately closed and the owner shall follow all current Department guidance in addressing the contamination before reopening of the pool. Procedures other than those provided by the Department may be approved on a case by case basis.

15. Automatic Controllers. Where automatic controllers are installed, the equipment shall be maintained in proper operating condition at all times.

16. Pool Temperatures.

(a) Pool temperatures shall not exceed 104 degrees Fahrenheit.

(b) The temperature of each heated Type "D" pool must be monitored and posted by one of the following ways:

(i) Every two hours and posted on the spa caution sign.

(ii) Continuously with automated equipment with the temperature displayed within sight of the spa.

(iii) An unbreakable thermometer must be placed in the spa so that persons can read it.

17. Operation Reports.

(a) Daily operation reports shall be maintained at every public pool. These shall include, as a minimum, readings of chlorine/bromine and pH. Chlorine/bromine and pH shall be checked daily during operating hours at a frequency which ensures the facility maintains required water quality standards for chlorine/bromine and pH. Cyanuric acid levels, if applicable, must be checked and recorded weekly.

(b) Results must be annotated on a bound log with numbered pages that is acceptable to the Department. The date, time and actual numerical reading must be listed on the report. Instrument monitoring shall not be used in lieu of water sampling. The report must be initialed at each reading and signed by the certified pool operator or his/her designated agent.

(c) Reports must be available for Department staff at time of inspection. In addition, reports shall be maintained and available at the facility for the previous eighteen (18) months.

18. Certified Pool Operator (CPO).

(a) All public swimming pools shall be operated under the direction of a qualified swimming pool operator who holds a valid South Carolina Pool Operator's license issued by the S.C. Department of Labor, Licensing and Regulation.

(b) The certified pool operator of record must inspect each public swimming pool a minimum of three (3) times per week during operation. Results of this inspection shall be annotated on the facility's daily operation report and initialed by the CPO.

19. Depth Markers. All pools must comply with the depth marker requirements listed in Section C, Paragraph 7.

20. Bacteriological Quality. The Department may take samples as necessary for bacterial analysis for each pool. The Department may also require that the owner sample the pool water for fecal coliform and have it analyzed by a certified laboratory. Any such sample shall be analyzed for fecal coliform bacteria in accordance with approved drinking water standard methods. The presence of any fecal coliform bacteria will indicate unsatisfactory water quality and will result in facility closure until satisfactory results are obtained.

21. Inspection of Facilities and Sampling of Pool Water.

(a) All public pools must be available to be inspected by authorized representatives of the Department during the posted pool operating hours unless a sign is posted indicating that the pool is closed. Equipment rooms and associated chemical storage areas must also be accessible during pool inspection.

(b) It is the owner's responsibility to correct those items not in compliance with these regulations.

22. Facility Closure. If the public swimming pool is closed for six (6) months or longer, the facility shall be appropriately covered, cleaned, and secured with a fence to prevent access of foreign material, animals, and humans. If drained, care should be taken to ensure that the facility is not damaged by subsurface hydro-static pressure and that access by animals and humans is restricted. If a public swimming pool is to be permanently closed, a period in excess of twenty-four (24) consecutive months, the pool shall be filled in or removed and the water and drainage connections removed. Written notification must be made to the Department.

23. Operating Permit Fees. The Department shall collect annual operating permit fees and late fees as specified in R. 61-30, *Environmental Protection Fees*.

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24. Operation and Maintenance Variance. When a pool owner desires to operate under a standard other than specified in these regulations a variance may be requested from the Department. Such a request must be submitted in writing and shall include a description of the standard proposed, identify the standard required by the regulation and include proof of equivalency. This request for a variance will be considered by the Department for approval. The Department's decision on such a variance will be final.

K. POOL CLOSURES AND ENFORCEMENT

1. Closure of Public Swimming Pools.

(a) Public Swimming Pools are to be closed immediately by the owner or his/her designated agent under the following conditions:

(i) When a public pool has not been issued or fails to display a valid annual operating permit from the Department.

(ii) When the required number of lifeguards are not on duty at Type "A" and Type "E" pools.

(iii) When any pool is cloudy such that the main drains are not visible and/or the number of openings in the main drain cannot be counted.

(iv) When any item of life saving equipment is missing, defective or not readily accessible in the pool area.

(v) When the telephone/emergency notification device is missing, defective, or not accessible.

(vi) When an imminent safety hazard exists that poses a threat of injury or illness to bathers.

(vii) When the free residual chlorine or equivalent halogen reading is less than 1.0 ppm or greater than 5.0 ppm.

(viii) When the pH is less than 7.2 or greater than 7.8.

(ix) When the disinfection, recirculation, automatic controller, or filtration system is not fully operational.

(x) When the pool log is not available or not properly maintained.

(xi) When fecal coliform is present in the pool water.

(xii) When the temperature of any type pool exceeds 104 degrees Fahrenheit.

(xiii) When "Pool Rules", "No Diving", spa "Caution", "No Lifeguard on Duty", or "Certified Pool Operator" signs are not posted in accordance with Section C, Paragraph 28 (a-e).

(xiv) When time limits specified by the Department have been exceeded for the correction, repair, or replacement of defective, missing, or unauthorized equipment.

(xv) When the facility fails to retain or produce proof of the services of a certified pool operator.

(b) Where the owner or his/her designated agent fails to close, or is not available to close, the swimming pool under any of the above circumstances, the Department shall close the swimming pool and post "No Swimming" signs.

(c) In every case of pool closure, one or more “No Swimming” signs shall be posted conspicuously around the affected pool. The owner or his/her designated agent shall require all swimmers to leave the pool water. When closed by the owner at Department request, the swimming pool may be reopened after the noted deficiencies have been corrected, unless Department reinspection is required. When the owner fails to comply with the Department’s request for closure, the Department will post “No Swimming” signs and the facility may not reopen until a satisfactory Department reinspection occurs.

(d) Following the third pool closure within a twelve (12) month period, the owner or his/her designated agent shall be notified and offered a technical assistance visit by Department staff. An additional closure (four total) within the twelve (12) month period may subject the owner to enforcement procedures in accordance with 1976 S.C. Code Ann. Sections 44-55-2370 and 44-55-2380.

2. Automatic Controllars. Automatic chemical feeders may be required for installation on those swimming pools with a record of improper water chemistry.

3. Penalties and Enforcement. Penalties may be imposed and enforcement procedures shall be carried out by the Department in accordance with 1976 S.C. Code Ann. Sections 44-55-2370 and 44-55-2380.

L. PRIOR REGULATIONS

All Rules and Regulations on swimming pools previously adopted by the Department are hereby revoked.

M. EFFECTIVE DATE. This regulation takes effect January 1, 2003.

Fiscal Impact Statement:

There will be minimal costs incurred by the State due to printing associated with the Regulation revision and certain revised Department forms necessary to support the program. See Statement of Need and Reasonableness below.

Statement of Need and Reasonableness:

This statement of need and reasonableness was determined by staff analysis pursuant to S.C. Code Section 1-23-115(C)(1)-(3) and (9)-(11).

DESCRIPTION OF REGULATION

Purpose: This amendment clarifies existing requirements for public swimming pools and outlines technical elements in a clear concise manner. The amendment better ensures the safe operation of all public swimming pools, spas and water parks. The amendment also provides an avenue for applying for construction and operational variances which will in turn allow for more flexibility in the design, construction and operation of public swimming facilities. See Synopsis and Discussion of Revisions above.

Legal Authority: S.C. Code Section 44-55-2310, State Recreational Waters Act

Plan for Implementation: These revisions will be incorporated into R.61-51 upon approval of the General Assembly and publication in the State Register. The amendment will be implemented in the same manner in which the present regulation is implemented.

DETERMINATION OF NEED AND REASONABLENESS OF THE REGULATION AMENDMENT BASED ON ALL FACTORS HEREIN AND EXPECTED BENEFIT: Department staff, after several years of internal review, further consultation with the EQC districts, and meetings with the regulated community, determined that a revision of R.61-51 was necessary. The regulation needs to be amended in order to clarify specific areas of pool

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construction, allow for more flexibility in pool design, specify change order requirements, and create more uniformity and consistency in the administration of the public swimming pool program. In addition, some ambiguity and duplication needs removal to increase the comprehension and compliance with this revision.

DETERMINATION OF COSTS AND BENEFITS: There will be minimal costs incurred by the State due to printing associated with the Regulation revision and certain revised Department forms necessary to support the program. The regulated community could see some slight increases in new construction costs due to the requirement for automatic water quality control systems on certain types of small volume swimming facilities and minor changes to construction requirements for all pools. In addition, the project design engineer or architect must certify the construction of new pools under the proposed changes, which may result in a slight increase in design fees. The overall benefit of adopting these regulations will be to enhance swimmer safety, reduce the need to issue construction variances for new innovative pool designs, and clarify requirements for the regulated community.

UNCERTAINTIES OF ESTIMATES: None

EFFECT ON ENVIRONMENT AND PUBLIC HEALTH: No change is anticipated in the current environmental impact of the recreational waters program. Public health should benefit by increased pool patron safety and understanding of the revised Regulation by the regulated community. A better understanding should lead to increased aquatic facility compliance.

DETRIMENTAL EFFECT ON THE ENVIRONMENT AND PUBLIC HEALTH IF THE REGULATION IS NOT IMPLEMENTED: There will be no adverse effect on the environment if the revisions are not implemented. However, there will be an adverse impact on the Department and regulated community due to the loss of increased patron safety and facility compliance that will be brought on by the implementation of the amendments.

Resubmitted March 13, 2002

Document No. 2660

DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL
CHAPTER 61

Statutory Authority: Section 44-71-10, *et seq*, South Carolina Code of Laws, 1976, as amended (2000)

R.61-78, Standards for Licensing Hospices

Synopsis:

The South Carolina General Assembly enacted changes in the S.C. Code of Laws, Section 44-71-10, *et seq*, effective May 1, 2000, to provide for the regulation of hospice facilities. Pursuant to the Act, this revised regulation will establish standards for the inspection and licensing of hospice facilities.

The Notice of Drafting for this amendment was published in the *State Register* on February 23, 2001.

Discussion of Regulation Revision

Part I - Applicable to Hospice Programs and Hospice Facilities

SECTION 100 includes definitions, references, and licensing requirements.

SECTION 200 addresses methods used in enforcing regulations, *i.e.*, investigations, inspections, and consultations.

SECTION 300 references the types of enforcement actions that may be taken by the Department, the classifications of violations, range of penalty amounts, and the appeal process.

SECTION 400 includes requirements that the agency maintain policies and procedures that include descriptions of how the standards in this regulation will be achieved.

SECTION 500 addresses general staff requirements including staff training, qualifications, and numbers to comply with applicable federal, state, and local laws and in accordance with professional organizational standards; requirements that direct care staff have no prior conviction of child/adult abuse, neglect, exploitation, or mistreatment; and staff health status.

SECTION 600 provides reporting requirements to the Department.

SECTION 700 addresses patient record content and maintenance.

SECTION 800 includes admission/retention information.

SECTION 900 provides requirements for care, treatment, and services to patients.

SECTION 1000 includes facility identification of patient rights and assurances.

SECTION 1100 addresses patient physical assessment.

SECTION 1200 addresses infection control including staff practices which promote the prevention of the spread of infectious, contagious disease, and tuberculin skin testing, per Center for Disease Control and Prevention (CDC) and the Department's TB Control requirements, and the handling of infectious waste.

SECTION 1300 addresses agreements for services.

SECTION 1400 addresses the quality improvement program.

PART II contains standards applicable to hospice facilities

SECTION 1500 addresses medication management, *i.e.*, administration, storage.

SECTION 1600 addresses meal service.

SECTION 1700 emergency procedures/disaster preparedness.

SECTION 1800 addresses fire prevention includes fire prevention, *i.e.*, arrangements for fire department response/protection, tests and inspections, fire drills.

SECTION 1900 addresses maintenance.

SECTION 2000 describes the requirements for environment, *i.e.*, housekeeping, pets, and clean/soiled linen and clothing.

SECTION 2100 addresses design and construction.

SECTION 2200 addresses construction requirements.

SECTION 2300 includes hazardous elements of construction.

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SECTION 2400 addresses fire protection equipment and systems.

SECTION 2500 addresses exits.

SECTION 2600 includes water supply/hygiene.

SECTION 2700 addresses electrical.

SECTION 2800 addresses heating, ventilation, and air conditioning.

SECTION 2900 addresses specifics for the physical plant, *i.e.*, patient rooms and floor area, bathrooms/restrooms, work station, doors, elevators, corridors, ramps, screens, telephone service, handrails/guardrails, landings, windows, janitor's closet, storage areas, location, and outdoor area.

SECTION 3000 includes a severability clause which indicates that if a court of competent jurisdiction determines that part of the regulation is invalid or otherwise unenforceable then the remainder of the regulation will not be affected and will still be in force.

SECTION 3100 includes "general" that refers to any conditions that have not been addressed in the regulation.

Instructions:

Replace R.61-78 in its entirety with this amendment

Text:

R.61-78 - Standards for Licensing Hospices

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PART I - APPLICABLE TO HOSPICE PROGRAMS AND HOSPICE FACILITIES

SECTION 100 – DEFINITIONS AND LICENSE REQUIREMENTS

101. Definitions.

For the purpose of this regulation, the following definitions shall apply:

A. **Administering Medication.** The direct application of a single dose of a medication to the body of a patient by injection, ingestion, or any other means.

B. **Administrator/Director.** The individual designated by the governing body to be responsible for the day-to-day management of the hospice.

C. **Advanced Practice Registered Nurse.** An individual who has Official Recognition as such by the S.C. Board of Nursing.

D. **Architect.** An individual currently registered as such by the S.C. State Board of Architectural Examiners.

E. **Attending Physician.** The physician who is identified by the patient as having the most significant role in the determination and delivery of medical care to the patient.

F. **Authorized Healthcare Provider.** An individual authorized by law and currently licensed in S.C. to provide specific care, treatment, or services to patients. Examples of individuals who may be authorized by law to provide the aforementioned care/treatment/services may include, but are not limited to, advanced practice registered nurses, and physician's assistants.

G. **Consultation.** A visit to a licensed hospice by individuals authorized by the Department to provide information to enable/encourage better compliance with the regulations.

H. **Controlled Substance.** A medication or other substance included in Schedule I, II, II, IV, and V of the Federal Controlled Substances Act and the S.C. Controlled Substances Act.

I. **Counseling Services.** Counseling includes bereavement counseling, as well as dietary, spiritual, and any other counseling services provided to the individual and family or responsible party.

J. **Department.** The S.C. Department of Health and Environmental Control (DHEC).

K. **Dietitian.** A person who is registered by the Commission on Dietetic Registration.

L. Direct Care Staff Member/Direct Care Volunteer. Those individuals who provide care to patients within the parameters of their training and/or as determined by state law/statute.

M. Facility. Any entity licensed by the Department.

N. Health Assessment. An evaluation of the health status of a staff member/volunteer by a physician, other authorized healthcare provider, or registered nurse, pursuant to written standing orders and/or protocol approved by a physician's signature. The standing orders/protocol shall be reviewed annually by the physician, with a copy maintained at the hospice.

O. Home Health Aide/Homemaker. An individual supervised by a registered nurse who renders assistance with personal care to patients needing assistance with activities of daily living, and who meets minimum qualifications and training as set by the hospice.

P. Hospice. A centrally administered, interdisciplinary healthcare program, which provides a continuum of medically supervised palliative and supportive care for the terminally ill patient and the family or responsible party, including but not limited to home, outpatient and inpatient services provided directly or through written agreement. Inpatient services include, but are not limited to, services provided by a hospice in a licensed hospice facility. The term "hospice" when used alone for purposes of this regulation shall represent both a hospice program and hospice facility as they are defined by this regulation.

Q. Hospice Facility. An institution, place, or building licensed by the Department to provide room, board, and appropriate hospice care on a 24-hour basis to individuals requiring such care pursuant to the orders of a physician.

R. Hospice Program. An entity licensed by the Department which provides appropriate hospice care to individuals as defined in Section 101.P above, exclusive of the services provided by a hospice facility.

S. Inpatient Healthcare Facility. An institution, place, or building licensed by the Department to provide room, board, and appropriate care/treatment/services particular to the type of license issued, *e.g.*, community residential care facility, nursing home, hospital or general infirmary, or hospice facility, on a 24-hour basis to individuals requiring such care/treatment/services pursuant to the orders of a physician.

T. Inspection. A visit by individuals authorized by the Department to an unlicensed or licensed hospice for the purpose of determining compliance with this regulation.

U. Interdisciplinary Team/Group. A group designated by the hospice to provide or supervise care/treatment/services provided by the hospice. The group must include at least the following individuals: a physician, a registered nurse, a social worker, and a pastoral or other counselor.

V. Investigation. A visit by individuals authorized by the Department to an unlicensed or licensed hospice for the purpose of determining the validity of allegations received by the Department.

W. Legend Drug.

1. A drug required by federal law to be labeled with any of the following statements prior to being dispensed or delivered:

- a. "Caution: Federal law prohibits dispensing without prescription";
- b. "Rx only" or;

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2. A drug required by federal or state law to be dispensed pursuant to a prescription drug order or restricted to use by practitioners only;

3. Any drug products designated by the S.C. Board of Pharmacy to be a public health threat; or

4. Any prescribed compounded prescription within the meaning of the Pharmacy Act.

X. License. A certificate issued by the Department to a hospice to provide hospice care/treatment/services.

Y. Licensee. The individual, corporation, or public entity with whom rests the ultimate responsibility for maintaining approved standards for the hospice.

Z. Licensed Nurse. A person licensed by the S.C. Board of Nursing as a registered nurse or licensed practical nurse.

AA. Medication. A substance that has therapeutic effects, including, but not limited to, legend drugs, nonlegend and herbal products, vitamins, and nutritional supplements, etc.

BB. Minor. A person 17 years of age or younger who has not been emancipated in accordance with state law.

CC. Nonlegend Medication. A medication which may be sold without a prescription and which is labeled for use by the consumer in accordance with the requirements of the laws of this State and the federal government.

DD. Occupational Therapist. A person currently licensed as such by the S.C. Board of Occupational Therapy Examiners.

EE. Palliative Care. Treatment that enhances comfort and improves the quality of an individual's life during the last phase of life.

FF. Patient. A person who receives care/treatment/services from a hospice licensed by the Department.

GG. Patient Room. An area enclosed by four ceiling-high walls that can house one or more patients of a hospice facility.

HH. Pharmacist. An individual currently registered as such by the S.C. Board of Pharmacy.

II. Physical Assessment. An assessment of a patient by a physician or other authorized healthcare provider that addresses those issues identified in Section 1100 of this regulation.

JJ. Physical Therapist. An individual currently registered as such by the S.C. Board of Physical Therapy Examiners.

KK. Physician. An individual currently licensed by his or her state medical licensing board to practice medicine within that state.

LL. Physician's Assistant. An individual currently licensed as such by the S.C. Board of Medical Examiners.

MM. Plan of Care. A documented regimen of care/treatment/services prepared by the hospice for each patient based on assessment data and implemented for the benefit of the patient.

NN. Quality Improvement Program. The process used by the hospice to examine its methods and practices of providing care, identifying the opportunities to improve its performance, and taking actions that result in higher quality of care for the hospice's patients.

OO. Ramp. An inclined accessible route that facilitates entrance to or egress from or within a hospice.

PP. Repeat Violation. The recurrence of a violation cited under the same section of the regulation within a 36-month period. The time-period determinant of repeat violation status is applicable in instances when there are ownership changes.

QQ. Respite Care. Short-term care provided to an individual to relieve the family members, responsible party, or other persons caring for the individual.

RR. Responsible Party. A person who is authorized by law to make decisions on behalf of a patient, including, but not limited to, a court-appointed guardian or conservator, or person with a health care or other durable power of attorney.

SS. Restraint. A device which inhibits the movement of a patient, *e.g.*, posey vest, geri-chair.

TT. Revocation of License. An action by the Department to cancel or annul a license by recalling, withdrawing, or rescinding its authority to operate.

UU. Social Worker. An individual who is licensed by the South Carolina Board of Social Worker Examiners.

VV. Speech Therapist. An individual currently licensed as such by the S.C. Board of Speech-Language Pathology and Audiology.

WW. Staff Member. An adult, to include the administrator, who is a compensated employee of the hospice on either a full or part-time basis.

XX. Suspend License. An action by the Department requiring a hospice to cease operations for a period of time or to require a hospice to cease admitting patients until such time as the Department rescinds that restriction.

YY. Terminally Ill. A medical prognosis that, if the disease runs its usual course, limits an individual's life expectancy to 24 months or less.

ZZ. Volunteer. An individual who performs tasks at the hospice at the direction of the administrator or his or her designee without compensation.

102. References

A. The following Departmental publications are referenced in these regulations:

1. R.61-20, Communicable Diseases;
2. R.61-25, Retail Food Establishments;
3. R.61-58, State Primary Drinking Water Regulations;
4. R.61-67, Standards for Wastewater Facility Construction;
5. R.61-105, S.C. Infectious Waste Management Regulations;

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6. S.C. Guidelines for Prevention and Control of Antibiotic Resistant Organisms.

B. The following non-Departmental publications are referenced within this regulation:

1. Standard Building Code;
2. National Fire Protection Association (NFPA) 101, Life Safety Code, and other NFPA standards, as applicable;
3. National Electrical Code;
4. Standard Plumbing Code;
5. Standard Mechanical Code;
6. Standard Gas Code;
7. State Fire Marshal Regulations;
8. American National Standards Institute (ANSI) 117.1, Specifications for Making Building and Facilities Accessible to and Useable by the Physically Handicapped;
9. Underwriters Laboratories - Fire Resistance Directory;
10. Underwriters Laboratories - Building Materials List;
11. Occupational Safety and Health Act of 1970 (OSHA);
12. Food and Nutrition Board of the National Research Council, National Academy of Sciences;
13. National Sanitation Federation;
14. Guidelines for Preventing the Transmission of Mycobacterium Tuberculosis in Healthcare Facilities;
15. U.S. Pharmacopoeia.

The Department shall enforce new laws that may change the above-noted standards and at its discretion adopt revisions to the above-noted references.

103. License Requirements

A. License. No person, private or public organization, political subdivision, or governmental agency shall establish, conduct, or maintain a hospice in this State, provide hospice services in this State, or represent (advertise/market) itself as providing hospice services in this State without first obtaining a license from the Department. When it has been determined by the Department that hospice care is being provided at a location, and the owner has not been issued a license from the Department to provide such care, the owner shall cease operation immediately and ensure the safety, health, and well-being of the patients. Admission of patients prior to the effective date of licensure is a violation of Section 44-71-30 of the S.C. Code of Laws. Current/previous violations of the S.C. Code and/or Department regulations may jeopardize the issuance of a license for the hospice or the licensing of any other hospice, facility (an entity licensed by the Department), or addition to an existing hospice facility which are owned by the licensee. The hospice may provide only the care/treatment/services it is licensed to provide pursuant to the hospice services defined in Sections 101.P and 101.EE of this regulation. (I)

B. Compliance. An initial license shall not be issued to a proposed hospice, not previously and continuously licensed under Department regulations, until the licensee has demonstrated to the Department that the proposed hospice is in substantial compliance with the applicable licensing standards. A copy of the licensing standards shall be maintained at the hospice and accessible to all hospice staff. In the event a licensee, who already has a hospice or facility licensed by the Department, makes application for licensure of an additional hospice or other type of facility, the currently licensed hospice/facility shall be in substantial compliance with the applicable standards prior to the Department issuing a license to the proposed hospice.

C. Compliance with Structural Standards upon Change of Licensee. When changes in licensee occur, the new licensee shall, through coordination with the Department's Division of Health Facilities Construction, formulate a plan for the hospice facility to be in compliance with current building and fire and life safety codes within 24 months of the date of the licensee change, unless specific standards are exempted by the Department. Should other changes in licensee occur within the 24-month period, the new licensee shall comply with the original plan approved by the Division of Health Facilities Construction by the end of the 24-month period which began with the date of the original licensee change. Hospice facilities are not required to modify square footage of patient rooms and maximum number of beds in patient rooms.

D. Licensed Bed Capacity. No hospice facility that has been authorized to provide a set number of licensed beds, as identified on the face of the license, shall exceed the bed capacity. No hospice facility shall establish new care, treatment, or services or occupy additional beds or renovated space without first obtaining authorization from the Department. Beds for use by staff members/volunteers are not included in the licensed bed capacity number, provided such beds and locations are so identified and used exclusively by staff members/volunteers. (I)

EXCEPTION: Designated guest rooms, which shall not be counted as part of the licensed bed capacity, may be utilized for housing of family members or responsible party.

E. Persons Received in Excess of Licensed Bed Capacity. No hospice facility shall receive for care, treatment, or services persons in excess of the licensed bed capacity, except in cases of justified emergencies. (I)

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EXCEPTION: In the event that the hospice facility temporarily provides shelter for evacuees who have been displaced due to a disaster, then for the duration of that emergency, provided the health, safety, and well-being of all patients are not compromised, it is permissible to temporarily exceed the licensed capacity for the hospice facility in order to accommodate these individuals (See Section 103.E).

F. Living Quarters for Staff Members. In addition to patients, only staff members, volunteers, or owners of the hospice facility and members of the owner's immediate family may reside in hospice facilities licensed under this regulation. Patient rooms shall not be utilized by staff members/volunteers nor shall bedrooms of staff members/volunteers be utilized by patients.

G. Issuance of License.

1. A license is issued by the Department and shall be posted in a conspicuous place in a public area within the hospice.

2. The issuance of a license does not guarantee adequacy of individual care, treatment, or services, personal safety, fire safety, or the well-being of any patient or occupant of a hospice.

3. A license is not assignable or transferable and is subject to revocation at any time by the Department for the licensee's failure to comply with the laws and regulations of this State.

4. A license shall be effective for a specified hospice, at a specific location(s), for a specified time period following the date of issue as determined by the Department. A license shall remain in effect until the Department notifies the licensee of a change in that status.

5. Hospice facilities owned by the same entity but which are not located on the same adjoining or contiguous property shall be separately licensed. Roads or local streets, except limited access, *e.g.*, interstate highways, shall not be considered as dividing otherwise adjoining or contiguous property.

6. Separate licenses are not required, but may be issued, for separate buildings on the same or adjoining grounds where a similar level or type of care is provided.

7. Multiple types of facilities on the same premises shall be licensed separately even though owned by the same entity, *e.g.*, hospice program, hospice facility.

8. Hospice facilities shall be located within the state of South Carolina.

9. A hospice facility must be owned or operated either directly or through contractual agreement with a hospice program.

H. Application. Applicants for a license shall submit to the Department a completed application on a form prescribed and furnished by the Department prior to initial licensing and periodically thereafter at intervals determined by the Department. The application includes both the applicant's oath assuring that the contents of the application are accurate/true, and that the applicant will comply with this regulation. The application shall be signed by the owner(s) if an individual or partnership; in the case of a corporation, by two of its officers; or in the case of a governmental unit, by the head of the governmental department having jurisdiction. The application shall set forth the full name and address of the hospice for which the license is sought and of the owner in the event his or her address is different from that of the hospice, and the names of the persons in control of the hospice. The Department may require additional information, including affirmative evidence of the applicant's ability to comply with these regulations. Corporations or partnerships shall be registered with the S.C. Office of the Secretary of State. The application shall indicate the counties in which the hospice will provide services.

I. Licensing fees shall be made payable by check or money order to the Department and are not refundable.

1. Applicants for a hospice program shall pay an initial and renewal license fee of \$100.00 plus \$50.00 for each county served.

2. For hospice facilities, the initial and annual license fee shall be \$10.00 per licensed bed or \$75.00, whichever is greater.

3. Fees for additional licensed beds shall be prorated based upon the remaining months of the licensure year.

4. If the application is denied, a portion of the fee shall be refunded based upon the remaining months of the licensure year or \$75.00, whichever is lesser.

J. Late Fee. Failure to submit a renewal application or fee before the license expiration date may result in a late fee(s) of 25% of the licensing fee amount, but not less than \$75.00, in addition to the licensing fee. Continual failure to submit completed and accurate renewal applications and/or fees by the time period specified by the Department may result in an enforcement action.

K. License Renewal. To renew a license, an applicant shall file an application with the Department, and pay a license fee. Additionally, the licensee must not be under consideration for an enforcement action by the Department or undergoing enforcement action by the Department. If the license renewal is delayed due to enforcement action, the renewal license will be issued only when the matter has been resolved satisfactorily by the Department or when the adjudicatory process is completed, whichever is applicable.

L. Change of License.

1. A hospice shall request issuance of an amended license by application to the Department prior to any of the following circumstances:

a. Change of ownership;

b. Change of licensed bed capacity (if applicable);

c. Change of location from one geographic site to another (by letter or application for hospice).

2. Changes in a hospice name, location from one geographic site to another (hospice only), or address as notified by the post office (no location change), may be accomplished by application or by letter from the licensee.

M. Hospice Name. No proposed hospice shall be named, nor may any existing hospice have its name changed to, the same or similar name as any other hospice licensed in the State. If it is part of a "chain operation" it shall then have the geographic area in which it is located as part of its name. (II)

N. Licensed Area. No hospice program may serve counties other than those identified on the face of the license, and all services must be made available throughout the entire licensed county(ies) identified. Failure to provide the full scope of services in all areas indicated on the license may be cause for revocation of the hospice's license in those counties or other sanction. (II)

O. Exceptions to Licensing Standards. The Department has the authority to make exceptions to these standards where it is determined that the health, safety, and well-being of the patients are not compromised, and provided the standard is not specifically required by statute.

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SECTION 200 - ENFORCING REGULATIONS

201. General

The Department shall utilize inspections, investigations, consultations, and other pertinent documentation regarding a proposed or licensed hospice in order to enforce this regulation.

202. Inspections/investigations

A. Inspections shall be conducted prior to initial licensing of a hospice and subsequent inspections conducted as determined by the Department.

B. All hospices are subject to inspection/investigation at any time without prior notice by individuals authorized by the S.C. Code of Laws.

C. Individuals authorized by the S.C. Code of Laws shall be granted access to all properties and areas, objects, and records in a timely manner and have the authority to require the hospice to make photocopies of those documents required in the course of inspections or investigations. Photocopies shall be used only for purposes of enforcement of regulations and confidentiality shall be maintained except to verify the identity of individuals in enforcement action proceedings. Physical area of inspections shall be determined by the extent to which there is potential impact/effect upon patients as determined by the inspector, *e.g.*, flammable liquids unsecured in a staff member's bedroom, attic, or basement. (I)

D. A hospice found noncompliant with the licensing standards shall submit an acceptable written plan of correction to the Department that shall be signed by the administrator and returned by the date specified on the report of inspection/investigation. The written plan of correction shall describe: (II)

1. The actions taken to correct each cited deficiency;
2. The actions taken to prevent recurrences (actual and similar);
3. The actual or expected completion dates of those actions.

E. Reports of inspections conducted by the Department, including the hospice response, shall be made available by the hospice upon request with the redaction of the names of those individuals in the report as provided by Sections 44-7-310 and 44-7-315 of the S.C. Code of Laws, 1976, as amended.

203. Consultations

Consultations shall be provided by the Department as requested by the hospice or as deemed appropriate by the Department.

SECTION 300 - ENFORCEMENT ACTIONS

301. General

When the Department determines that a hospice is in violation of any statutory provision, rule, or regulation relating to the operation or maintenance of such hospice, the Department, upon proper notice to the licensee, may impose a monetary penalty, and deny, suspend, or revoke its license.

302. Violation Classifications

Violations of standards in this regulation are classified as follows:

A. Class I violations of standards are those that the Department determines to present an imminent danger to the health, safety, or well-being of hospice patients or any person in a hospice facility or a substantial probability that death or serious physical harm could result therefrom. A physical condition or one or more practices, means, methods or operations in use in a hospice may constitute such a violation. The condition or practice constituting a Class I violation shall be abated or eliminated immediately unless a fixed period of time, as stipulated by the Department, is required for correction. Each day such violation exists after expiration of this time may be considered a subsequent violation.

B. Class II violations are those, other than Class I violations, that the Department determines to have a negative impact on the health, safety or well-being of hospice patients or any person in a hospice facility. The citation of a Class II violation shall specify the time within which the violation is required to be corrected. Each day such violation exists after expiration of this time may be considered a subsequent violation.

C. Class III violations are those that are not classified as Class I or II in these regulations or those that are against the best practices as interpreted by the Department. The citation of a Class III violation shall specify the time within which the violation is required to be corrected. Each day such violation exists after expiration of this time may be considered a subsequent violation.

D. Class I and II violations are indicated by notation after each applicable section, *i.e.*, “(I)” or “(II).” Sections not annotated in that manner denote Class III violations. A classification at the beginning of a section/subsection applies to all subsections following, unless otherwise indicated.

E. In arriving at a decision to take enforcement actions, the Department will consider the following factors: specific conditions and their impact or potential impact on health, safety or well-being of patients; efforts by the hospice to correct cited violations; behavior of the licensee that reflects negatively on the licensee’s character, such as illegal/illicit activities; overall conditions; history of compliance; any other pertinent conditions that may be applicable to current statutes and regulations including participating in, or offering, or implying an offer to participate in the practice generally known as rebates, kickbacks, or fee-splitting arrangements.

F. When a decision is made to impose monetary penalties, the following schedule may be used as a guide to determine the dollar amount:

Frequency of violation of standard within a 36-month period:

FREQUENCY	MONETARY PENALTY RANGES		
	CLASS I	CLASS II	CLASS III
1st	\$ 500 - 1500	\$ 300 - 800	\$ 100 - 300
2nd	1000 - 3000	500 -1500	300 - 800
3rd	2000 - 5000	1000 - 3000	500 - 1500
4th	5000	2000 - 5000	1000 - 3000
5th	7500	5000	2000 - 5000
6th	10,000	7500	5000

G. Any enforcement action taken by the Department may be appealed pursuant to the Administrative Procedures Act, Section 1-23-310, *et seq.*, S.C. Code of Laws, 1976, as amended.

SECTION 400 - POLICIES AND PROCEDURES

401. General (II)

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A. Policies and procedures addressing each section of this regulation regarding patient care, rights, and the operation of the hospice shall be developed and implemented and revised as required in order to accurately reflect actual hospice operation. The policies and procedures shall address the provision of any special care offered by the hospice. Information shall include the means by which the hospice will meet the specialized needs of the affected patients, such as those with Alzheimer's disease and/or related dementia, and those who are physically/developmentally disabled, in accordance with any laws which pertain to that service offered, *e.g.*, Alzheimer's Special Care Disclosure Act. Hospices shall establish a time period for review of all policies and procedures. These policies and procedures shall be accessible at all times and a hard copy shall be available or be readily accessible electronically at each hospice.

B. By its application, the licensee agrees to comply with all standards in this regulation. The policies and procedures shall describe the means by which the hospice shall assure that the standards described in this regulation are met.

SECTION 500 - STAFF/TRAINING

501. General (II)

A. Appropriate staff in numbers and training shall be provided to meet the needs and condition of the patients. Training/qualifications for the tasks each performs shall be in compliance with all professional standards and applicable federal and state laws.

B. Direct care staff members/direct care volunteers of the hospice shall not have a prior conviction or have pled no contest (*nolo contendere*) for child or adult abuse, neglect, exploitation, or mistreatment. The hospice shall coordinate with applicable registries should licensed/certified individuals be considered as employees of the hospice. For those staff members/volunteers who are licensed/certified, a copy of the license/certificate shall be available for review. (I)

C. There shall be accurate current information maintained regarding all staff members/volunteers of the hospice, to include at least address, phone number, and health and personal/work/training background. All staff members/volunteers shall be assigned duties and responsibilities, which shall be in writing and in accordance with the individual's capability.

502. Administrator/Director (II)

The hospice shall designate an individual to serve as administrator/director. The administrator/director shall have the authority and responsibility for the functions and activities of the hospice, be an employee of the hospice, and be available within a reasonable time and distance. Administrators/Directors hired subsequent to the promulgation of this regulation shall hold at least a baccalaureate or associate degree and have a minimum of three years experience in a health-related field within the past five years. A qualified staff member shall be designated, in writing, to act in the absence of the administrator/director.

503. Medical Director (II)

The hospice shall designate a physician who assumes overall responsibility for the medical component of the hospice. This individual may also serve as administrator/director.

504. Staffing (I)

A. A physician shall supervise the care and treatment of the patient while receiving hospice treatment/care/services.

B. Nursing care services shall be supervised by a staff registered nurse.

C. Minimum staffing for a hospice facility shall consist of one RN and one additional direct care staff member on duty at all times. The following staffing ratio applies to each hospice facility.

Minimum Ratio of Staff (RN, Licensed Practical Nurse, Home Health Aide) to Patients

	0-10 Patients	11-20 Patients	21-30 Patients
*1ST SHIFT	2	3	4
*2ND SHIFT	2	2	3
3RD SHIFT	2	2	3

If staffing is scheduled in two 12-hour shifts, the minimum staffing ratios marked with an (*) above will be followed for the day and night shifts respectively.

D. For hospice facilities with more than 30 patients, additional staff shall be required at a ratio of 1:10.

E. Additional staff members shall be provided if it is determined by the Department that the minimum staff requirements are inadequate to provide appropriate care/treatment/services and supervision to the patients of a hospice.

505. Inservice Training (I)

A. The following training shall be provided by appropriate resources, *e.g.*, licensed/registered persons, video tapes, books, etc., to all staff members/direct care volunteers in the context of their job duties and responsibilities prior to patient contact and at a frequency determined by the hospice, but at least annually:

1. Management/care of persons with contagious and/or communicable disease, *e.g.*, hepatitis, tuberculosis, HIV infection;
2. Care of persons specific to the physical/mental condition being cared for by the hospice, *e.g.*, cancer, AIDS, dementia, cognitive disability, *etc.*
3. Use of restraints in accordance with the provisions of Section 1704 (for designated staff members only);
4. OSHA standards regarding bloodborne pathogens;
5. Cardiopulmonary resuscitation for designated staff members/volunteers to insure that there is a certified staff member/volunteer available to patients who wish to receive CPR;
6. Confidentiality of patient information and records and the protection of patient rights;
7. Fire response training within 24 hours of their first day on duty in the hospice facility (See Section 1803);
8. Emergency procedures/disaster preparedness within 24 hours of their first day on duty in the hospice facility (See Section 1700).

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B. Job Orientation. All new staff members/volunteers shall be oriented to acquaint them with the organization and environment, specific duties and responsibilities of staff members/volunteers, and patients' needs.

506. Health Status (II)

A. All staff/volunteers who have contact with patients shall have a health assessment within one year prior to patient contact.

B. All staff/direct care volunteers shall undergo a tuberculin skin test pursuant to Section 1202.

SECTION 600 -REPORTING

601. Incidents/Accidents (II)

A. A record of each incident and/or accident, including the use of mechanical/physical restraints and medication errors involving patients or staff members/volunteers in the hospice facility or on the hospice facility grounds, shall be prepared and retained.

1. Incidents/Accidents resulting in unexpected death or inpatient hospitalization shall be reported via telephone to the next-of-kin or responsible party immediately and in writing to the Department's Division of Health Licensing within 10 days of the occurrence.

2. Incidents/Accidents shall be considered as, but are not limited to: fractures of major limbs or joints, severe burns, severe lacerations, severe hematomas, and actual/suspected abuse/neglect/exploitation/mistreatment of patients.

B. Reports shall contain at a minimum: hospice name, patient age and sex, date of incident/accident, location, witness names, extent/type of injury and how treated, *e.g.*, hospitalization, identified cause of incident/accident, internal investigation results if cause unknown, and the date of the report.

C. Incidents where patients have left the premises of the hospice facility without notice to staff members/volunteers of intent to leave and have not returned within 24 hours shall be reported to the next-of-kin or responsible party and to local law enforcement immediately. When patients who are cognitively impaired leave the premises without notice to staff members/volunteers, law enforcement, and next-of-kin shall be contacted immediately upon discovery of the patient's absence. The Division of Health Licensing shall be notified not later than 10 days of the occurrence.

D. Medication errors and adverse medication reactions shall be reported immediately to the next-of-kin or responsible party, prescriber, emergency contact, and other personnel as required by agency policy.

602. Patient Death

The hospice shall have a written plan to be followed at the time of patient death. The plan must provide for:

A. Collection of data needed for the death certificate, as required by state law;

B. Recording time of death;

C. Pronouncement of death;

D. Notification of attending physician responsible for signing death certificate;

E. Notification of next-of-kin or responsible party;

F. Authorization and release of body to funeral home;

G. Notification to the Department of any death resulting from an injury, accident, or other possible unnatural causes.

603. Fire/Disasters (II)

A. The Division of Health Licensing shall be notified immediately via telephone or fax regarding any fire in the hospice facility followed by a complete written report, to include fire department reports, if any, to be submitted within a time-period determined by the hospice facility, but not to exceed 72 hours from the occurrence of the fire.

B. Any natural disaster or fire that jeopardizes the safety of any persons in the hospice facility shall be reported to the Division of Health Licensing via telephone or fax immediately, with a complete written report which includes the fire report from the local fire department, if appropriate, submitted within a time-period as determined by the hospice facility, but not to exceed 72 hours.

604. Communicable Diseases and Animal Bites (I)

All cases of diseases and animal bites (hospice facilities only) which are required to be reported to the appropriate county health department shall be accomplished in accordance with R.61-20.

605. Administrator/Director Change

The Department shall be notified in writing by the licensee within 10 days of any change in administrator/director. The notice shall include at least the name of the newly-appointed individual and effective date of the appointment.

606. Joint Annual Report

Hospices, if required by the Department's Planning and Certificate of Need Division to submit a "Joint Annual Report," shall complete and return this report within the time-period specified by that Division.

607. Accounting of Controlled Substances (II)

Any facility registered with the Department's Bureau of Drug Control and the United States Drug Enforcement Agency shall report any theft or loss of controlled substances to local law enforcement and to the Department's Bureau of Drug Control upon discovery of the loss/theft.

608. Emergency Placements

In instances where evacuees have been relocated to a hospice facility, the Division of Health Licensing shall be notified not later than the following workday of the names of the individuals received.

609. Hospice Closure

Prior to the permanent or temporary closure of a hospice, the hospice shall notify the Division of Health Licensing in writing of the intent to close, the effective closure date, and the place the patients have been relocated. On the date of permanent closure, the license shall be returned to the Division of Health Licensing. For temporary hospice closures, the hospice shall notify the Division of Health Licensing in writing in advance of re-opening.

610. Zero Census

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In instances when there have been no patients in a hospice facility for any reason for a period of 90 days or more, the facility shall notify the Division of Health Licensing in writing that there have been no admissions, no later than the 100th day following the date of departure of the last active patient. At the time of that notification, the Division of Health Licensing shall consider, upon appropriate review of the situation, the necessity of inspecting the facility prior to any new and/or re-admissions to the facility. If the hospice facility has no patients for a period longer than one year, and there is a desire to admit a patient, the facility shall re-apply to the Division of Health Licensing for licensure and shall be subject to all licensing requirements at the time of that application, including construction-related requirements for a new hospice facility.

SECTION 700 - PATIENT RECORDS

701. General

The hospice shall maintain and store a record for each hospice patient in a manner that ensures confidentiality, security, and integrity of the information.

702. Content (II)

A. The hospice shall initiate and maintain an organized record for each patient. The record shall contain sufficient documented information to identify the patient and verify appropriate care rendered. All entries shall be written legibly in ink or typed, signed, and dated.

B. Specific entries/documentation shall include at a minimum:

1. Consultations by physicians or other authorized healthcare providers;
2. Orders for all medication, care, treatment, services, and procedures from physicians or other authorized healthcare providers shall be completed prior to, or at the time of admission, and updated when revised. Verbal orders received shall include the date of receipt of the order, description of the order, and identification of the individual receiving the order;
3. Care/treatment/services provided;
4. Medications administered and procedures followed if an error is made, to include adverse reactions;
5. Notes of observation;
6. Time and circumstances of death or of discharge/transfer, including condition at discharge/transfer.

703. Assessment

An individualized assessment of physical, emotional, and spiritual needs shall be conducted at the time of admission for each patient. It is acceptable to utilize the same assessment of a patient moving from a hospice to a hospice facility or vice versa if both are owned by the same licensee.

704. Plan of Care (II)

A plan of care (POC) (See 101.MM) shall be developed by the interdisciplinary team within 48 hours of admission, approved by a physician, and updated as needed, and shall include the care, treatment, and services relative to the

needs of the patient and maintained in the patient record. It is acceptable to utilize the same POC of a patient moving from a hospice to a hospice facility or vice versa that is owned by the same licensee.

705. Record Maintenance

A. The licensee shall provide accommodations, space, supplies, and equipment adequate for the function, protection, and storage of patient records.

B. When a patient is transferred from a hospice to another hospice or facility, copies of appropriate supporting documentation to include at a minimum, a copy of the POC and medication record shall be forwarded to the receiving hospice or facility at the time of transfer. (II)

C. The patient record is confidential and may be made available only to authorized individuals. Active patient records, with the exception of records utilized by providers during home visits, shall be available at the hospice at all times and shall be accessible by the staff member in charge and by other authorized individuals such as representatives of the Department. (II)

D. Records generated by organizations/individuals with whom the hospice contracts for care, treatment, or services shall be maintained by the hospice that has admitted the patient.

E. The hospice shall determine the medium in which information is stored.

F. Agencies employing electronic signatures or computer-generated signature codes shall insure authentication and security.

G. Upon discharge of a patient, the patient record shall be completed and filed in an inactive/closed file within a time period as determined by the hospice, but no later than 30 days after discharge. Closed patient records shall be stored by the licensee and retained for six years following the discharge of the patient. Such records shall be made available to the Department upon request.

H. Upon discharge of the hospice patient's family from bereavement services, the bereavement information shall be filed in an inactive/closed file within a time-period as determined by the hospice. Closed bereavement information shall be stored by the licensee and retained for six years following the completion of services.

I. Prior to the closing of a hospice for any reason, the licensee shall arrange for preservation of records to insure compliance with these regulations. The licensee shall notify the Department, in writing, describing these arrangements within 10 days of closure.

J. Patient records may be destroyed after six years provided that records of minor patients are retained until after the expiration of the period of election following achievement of majority as prescribed by statute.

K. Records of patients are the property of the hospice and shall not be removed from the designated patient record storage area, to include on-site, off-site, or contracted storage, without court order, except when care is delivered in the home or the hospice facility.

EXCEPTION: When a patient is transferred from one hospice to another hospice within the same provider network (same licensee), the original record may follow the patient; the sending hospice shall maintain documentation of the patient's transfer/discharge date and identification information. In the event of change of ownership, all active patient records or copies of active patient records shall be transferred to the new owner(s).

SECTION 800 - ADMISSION/RETENTION

801. General

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A. Individuals seeking admission shall be identified as appropriate for the level of care, treatment, services, or assistance offered. The hospice shall establish admission criteria that are consistently applied and comply with local, state, and federal laws and regulations.

B. The hospice shall admit and retain only those persons whose needs can be met by the accommodations and services provided. (I)

C. Admissions and retention of patients shall be deemed appropriate based on the following considerations:

1. The person is under the care of a physician, and is certified by the physician to be terminally ill and is appropriate for hospice care/treatment/services.

2. The person and/or his or her responsible party agree to accept hospice care/treatment/services;

3. The person and family have a demonstrated need for physical, emotional, or spiritual care that can be adequately provided by the hospice, as defined in Section 101.P.

4. The person is not likely to endanger him/herself or others as determined by a physician or other authorized healthcare provider. (I)

SECTION 900 - PATIENT CARE/TREATMENT/SERVICES

901. General (I)

A. Care/treatment/services relative to the needs of the patient and family are provided as identified in the POC, to include emergency treatment as appropriate. These services shall be coordinated across the continuum of care, modified as warranted based on any changing needs of the patient and family, with changes reflected in the POC. In instances of emergency due to disaster, the hospice shall have a disaster plan to address the needs of the patients, which includes the continued care/treatment/services provided by the hospice to the patients, unless the nature of the disaster precludes the hospice from continuing such care/treatment/services.

B. Nursing and other interdisciplinary services, including medications administered, shall be provided in a safe, effective manner and in accordance with local, state, and federal laws and regulation and with established professional practices. Care/treatment/services provided shall be supervised by appropriate qualified professionals and be available 24 hours a day, seven days a week.

C. The following shall be routinely provided directly by the hospice:

1. Medical Director;
2. Nursing care by or under the supervision of an RN;
3. Social work;
4. Bereavement Counseling;
5. Volunteer Services;
6. Supervision of home health aides and homemakers.

D. The following shall be provided as specified in the patient's POC, either directly by the hospice or arranged for through legally-binding arrangements made by the hospice:

1. Spiritual care;
2. Home health aide;
3. Physical therapy, occupational therapy, speech therapy;
4. Dietary consultation;
5. Medical supplies;
6. Prescription medications;
7. Durable medical equipment;
8. Short-term respite care;
9. Short-term inpatient care for pain control and/or symptom management;
10. Continuous care.

E. Additional services shall be provided, either directly or by contractual arrangement, when specified in the POC.

F. When appropriate to meet the needs of the patient and as ordered by the attending physician, the hospice shall initiate the referral to an appropriate facility.

SECTION 1000 - RIGHTS AND ASSURANCES

1001. General (II)

A. The hospice shall comply with all relevant federal, state, and local laws and regulations related to patient care and protections, *e.g.*, Title VI, Section 601 of the Civil Rights Act of 1964, Americans with Disabilities Act (ADA), and ensure that there is no discrimination with regard to source of payment, recruitment of potential patients, location of patients, or provision of care, treatment, and services to patients. Care shall not be discontinued or diminished due to the inability to pay for the care, until provisions can be made for transfer of the patient.

B. The following rights shall be guaranteed to the patient, and, at a minimum, the hospice shall provide the patient a written and oral explanation of these rights:

1. Hospice.
 - a. To be informed of care to be provided and the opportunity to participate in care and treatment and to be informed about, and updated on changes in condition;
 - b. To refuse to participate in experimental research;
 - c. To choose a physician or other authorized healthcare provider;
 - d. Confidentiality of patient records;

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e. Respect and security for the patient's property and in a hospice facility for the patient to keep personal possessions as space permits, unless it interferes with the rights and safety of other patients.

f. Advance directive options;

g. Freedom from abuse (physical or mental), neglect, and exploitation;

h. Freedom from physical restraint through the use of medications unless they are prescribed by a doctor.

i. Respect and dignity in receiving care, including privacy in receiving treatment or personal care.

2. Hospice Facility.

a. To choose meals/food as desired.

b. Immediate access to family members, other relatives, or responsible party without restriction or unreasonable delay.

c. Privacy in visits, including the right to associate and communicate privately with people of the patient's choice, including spousal visits of a conjugal nature.

d. Receive visitors at any reasonable hour, including small children.

e. Privacy when sending or receiving mail. The hospice facility cannot open and read mail without patient permission either when received or prior to being mailed.

f. To share a patient room, unless contraindicated by their attending physician.

C. The hospice facility shall establish a refund policy based on the actual number of days a patient is physically present in the hospice facility (along with bed-hold days). The patient or responsible party shall be informed of the refund policy in writing at the time of admission and shall be notified in writing anytime the policy is changed.

D. The hospice facility shall inform the patient or responsible party in writing of the grievance procedure should the patient consider one or more of his or her rights violated.

E. The patient rights, the grievance procedure and other notices as required by law shall be prominently displayed in public areas of the hospice facility. Included in the grievance procedure shall be the address and phone number of the Department's Division of Health Licensing.

F. Patients must be given written notice of not less than 30 days for transfer or discharge, except that when the health, safety, or well-being of other patients of the hospice facility would be endangered by the 30-day notice requirement, the time for giving notice must be that which is practicable under the circumstances. A patient may be transferred or discharged:

1. If he or she moves out of the hospice program's service area;

2. For medical reasons;

3. For noncompliance with the plan of care;

4. For the welfare of the patient or the welfare of staff or other patients of the hospice facility.

G. The hospice shall not retaliate against a patient should the patient exercise his or her right to complain about a violation of his or her rights, *e.g.*, increasing charges, decreasing the services received; taking away any privileges; use of abuse, threatening language, or trying to force a patient to discontinue hospice care or leave the hospice facility.

SECTION 1100 - PATIENT PHYSICAL ASSESSMENT

1101. General (I)

A. A medical history and physical assessment shall be completed for patients within 30 days prior to or no later than 48 hours after admission. The physical assessment shall address the appropriateness of admission, medications required and self-administration status, and identification of special conditions/care required, *e.g.*, communicable disease, such as tuberculosis, Alzheimer's disease and/or related dementia, pain management, imminent death, etc.

B. The physical assessment shall be performed only by a physician or other authorized healthcare provider.

C. If a patient or potential patient has a communicable disease, the hospice shall seek advice from a physician or other authorized healthcare provider in order to:

1. Insure the hospice has the capability to provide adequate care and prevent the spread of that condition and that the staff members/volunteers are adequately trained;

2. Transfer the patient to an appropriate facility, if necessary.

D. A discharge summary from an inpatient health care facility, which includes a physical assessment, may be acceptable as the admission physical assessment, provided the summary includes the requirements of Sections 1101.A and B above.

E. In the event that a patient transfers from a facility licensed by the Department to a hospice, an additional admission physical assessment shall not be required, provided the sending facility has had a physical assessment conducted on the patient not earlier than 12 months prior to the admission of the patient to the hospice facility and the physical assessment meets requirements specified in Sections 1101.A and B above unless the receiving facility has an indication that the health status of the patient has changed significantly. The receiving hospice facility shall acquire a copy of the admission physical assessment/tuberculin skin test from the hospice facility transferring the patient (See Section 1202 regarding tuberculin skin testing).

SECTION 1200 - INFECTION CONTROL

1201. Staff Practices (I)

Staff/volunteer practices shall promote conditions that prevent the spread of infectious, contagious, or communicable diseases and provide for the proper disposal of toxic and hazardous substances. These preventive measures/practices shall be in compliance with applicable guidelines of the Bloodborne Pathogens Standard of the Occupational Safety and Health Act (OSHA) of 1970; the Centers for Disease Control and Prevention (CDC); the Department's Guidelines For Prevention and Control of Antibiotic Resistant Organisms in Health Care Settings and R.61-105 and other applicable federal, state, and local laws and regulations.

1202. Tuberculin Skin Testing (I)

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A. Tuberculin skin testing, utilizing a two-step intradermal (Mantoux) method of five tuberculin units of stabilized purified protein derivative (PPD), is a procedure recommended by the CDC Guidelines for Preventing Transmission of Mycobacterium Tuberculosis in Healthcare Facilities to establish baseline status. The two-step procedure involves one initial tuberculin skin test with a negative result, followed 7-21 days later by a second test.

B. Testing Procedures.

1. Staff members/direct care volunteers of hospices shall be required to have evidence of a two-step tuberculin skin test within three months prior to patient contact. If there is a documented negative tuberculin skin test (at least single-step) within the previous 12 months, the person shall be required to have only one tuberculin skin test to establish a baseline status.

2. Staff members/direct care volunteers with negative test results from the initial two-step procedure shall be required to have an annual one-step skin test.

C. Positive Reactions/Exposure.

1. Individuals with tuberculin skin test reactions of 10mm or more of induration and known human immunodeficiency virus (HIV)-positive individuals with tuberculin skin test reactions of 5mm or more of induration shall be referred to a physician or other authorized healthcare provider for appropriate evaluation.

2. All persons who are known or suspected to have tuberculosis (TB) shall be evaluated by a physician or other authorized healthcare provider.

3. Staff members/direct care volunteers will not be allowed to return to work until they have been declared noncontagious by a physician or other authorized healthcare provider.

4. Patients with symptoms of TB shall be isolated and/or treated/referred as necessary until certified as noncontagious by a physician or other authorized healthcare provider.

5. Individuals who have had a prior history of TB shall be required to have a chest radiograph and certification within one month prior to employment/admission by a physician or other authorized healthcare provider that they are not contagious.

6. If an individual who was previously documented as skin test negative has an exposure to a documented case of TB, the hospice shall immediately contact the local county health department or the Department's TB Control Division for consultation.

D. Treatment.

1. Preventive treatment of persons who are new positive reactors is recommended unless specifically contraindicated.

2. Individuals who complete treatment either for disease or infection are exempt from further treatment unless they develop symptoms of TB. An individual who remains asymptomatic shall not be required to have a chest radiograph, but shall have an annual documented assessment by a physician or other authorized healthcare provider for symptoms suggestive of TB, *e.g.*, cough, weight loss, night sweats, fever, etc.

1203. Infectious Waste (I)

Accumulated waste, including all contaminated sharps, dressings, and/or similar infectious waste, shall be disposed of in a manner compliant with OSHA Bloodborne Pathogens Standard and the Department's S.C. Guidelines For Prevention and Control of Antibiotic Resistant Organisms in Health Care Settings, and R.61-105.

SECTION 1300 - AGREEMENTS FOR SERVICES**1301. General (II)**

When a hospice engages a source other than the hospice to provide services normally provided by the hospice, *e.g.*, staffing, training, food service, professional consulting, maintenance, transportation, there shall be a written agreement with the source that describes how and when the services are to be provided, the exact services to be provided, and a statement that these services are to be provided by qualified individuals. The source shall comply with this regulation in regard to patient care, treatment, services, and rights.

SECTION 1400 - QUALITY IMPROVEMENT PROGRAM**1401. General (II)**

A. There shall be a written, implemented quality improvement program that provides effective self-assessment and implementation of changes designed to improve the care/treatment/services provided by the hospice.

B. The quality improvement program, at a minimum, shall:

1. Establish desired outcomes and the criteria by which policy and procedure effectiveness is regularly, systematically, and objectively accomplished;
2. Identify, evaluate, and determine the causes of any deviation from the desired outcomes;
3. Identify the action taken to correct deviations and prevent future deviation, and the person(s) responsible for implementation of these actions;
4. Establish ways to measure the quality of patient care and staff performance as well as the degree to which the policies and procedures are followed;

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5. Analyze the appropriateness of the POC's and the necessity of care/treatment/services rendered;
6. Analyze the effectiveness of the fire plan (hospice facility only);
7. Analyze all incidents and accidents, to include all medication errors and unexpected patient deaths;
8. Analyze any infection, epidemic outbreaks, or other unusual occurrences which threaten the health, safety, or well-being of the patients.

C. The hospice shall establish a method of obtaining feedback from patients/families and other interested persons regarding the level of satisfaction with services, treatment, and care provided by the hospice.

PART II - HOSPICE FACILITIES

A hospice facility shall comply with all of the preceding standards as well as all those addressed in Part II.

SECTION 1500 - MEDICATION MANAGEMENT

1501. General (I)

A. Medications, including controlled substances, medical supplies, and those items necessary for the rendering of first aid shall be properly managed in accordance with local, state, and federal laws and regulations. Such management shall address the securing, storing, and administering of medications, medical supplies, first aid supplies, and biologicals, their disposal when discontinued or outdated, and their disposition at discharge, death, or transfer of a patient.

B. The hospice facility shall provide appropriate methods and procedures for the dispensing and administering of medications/biologicals. Whether medications/biologicals are obtained from community or institutional pharmacies or stocked by the hospice facility, the hospice facility is responsible for assuring the availability of medications and biologicals for its patients and for ensuring that pharmaceutical services are provided in accordance with accepted professional principles and appropriate federal, state, and local laws.

C. Applicable reference materials, *e.g.*, Physician's Desk Reference (PDR), current Drug Reference Book, published within the previous year shall be available at the hospice in order to provide staff members/volunteers with adequate information concerning medications.

1502. Medications and Treatment Orders (I)

A. Orders for medications and treatment shall be signed by a physician and incorporated in the patient's record maintained by the hospice. Verbal/telephonic orders shall be received by an authorized healthcare provider. Therapists, pharmacists and social workers can receive only those orders pertinent to their specialty. The hospice, to include a representation by physicians treating patients at the hospice, a pharmacist, and the Nursing Director may establish lists of categories of diagnostic or therapeutic verbal orders associated with any potential hazard to the patient that must be authenticated by the physician within a limited hospice-determined time period, but in no case shall any orders be authenticated later than 48 hours from the date of the order. Controlled substances shall be included on the list to be authenticated within 7 days of the order and all other orders shall be authenticated within 30 days.

B. Stop-Order Policies. All medication orders which do not specifically indicate the number of doses to be administered or the length of time the medication is to be administered shall automatically be stopped in accordance with written policies established by the hospice.

D. Standing Orders. Standing orders may be utilized if signed by the attending physician or medical director and updated not less than annually.

1503. Emergency Medications (I)

A. A kit containing medications for emergency use shall be maintained in the hospice facility. The kit shall be readily available but must be properly secured. The kit shall contain such medications as selected and approved consistent with hospice facility policy and state and federal regulations. An inventory of medications maintained in the kit shall be attached to or placed in the kit.

B. The emergency kit shall be reviewed at least monthly to ensure that all medications are accounted for, unexpired, and properly replaced when used.

C. There shall be at least one emergency kit on each patient floor.

1504. Administering Medication (I)

A. Medication, to include oxygen, shall be administered to patients only upon orders (to include standing orders) of a physician or other authorized healthcare provider. Medications accompanying patients at admission may be administered to patients provided the medication is in the original labeled container and the order is subsequently obtained as a part of the admission physical assessment. Should there be concerns regarding the appropriateness of administering medications due to the condition/state of the medication, *e.g.*, expired, makeshift or illegible labels, or the condition/state of health of the newly-admitted patient, staff members shall consult with the attending physician to clarify the orders.

B. Doses of medication shall be administered by the same licensed nurse who prepared them for administration. Preparation shall occur no earlier than one hour prior to administering. Preparation of doses for more than one scheduled administration shall not be permitted. Each medication dose administered or supervised shall be properly recorded by initialing on the patient's medication record as the medication is administered. Recording medication administration shall include medication name, dosage, mode of administration, date, time, and the signature of the individual administering or supervising the taking of the medication. Recording shall include the medication, dosage, and mode of administration, date, time and identification of the person administering the medication(s). Initials are acceptable when they can be identified readily by signatures.

C. Medications shall be administered in accordance with state practice acts by a physician or other authorized healthcare provider, or licensed nurse.

D. Medications ordered for a specific patient shall not be provided/administered to any other patient. Medications prescribed for a specific patient cannot be administered to another person.

E. Self-administration of medications shall be allowed only on the specific written orders of the patient's attending physician. (Self-administered medications shall be recorded on the medication administration records by the appropriate licensed staff.) Prescribed and over-the-counter medications, *e.g.*, nitroglycerin, skin ointments, etc., may be kept at bedside upon physician orders if kept in a closed area, such as the drawer of the patient's night stand, in accordance with facility policy.

F. Hospice facilities may elect not to permit self-administration.

1505. Pharmacy Services (I)

A. The hospice facility shall ensure that hospice facility pharmacy operations are in compliance with all applicable state and federal regulations, *i.e.*, regarding ordering, storage, administration, disposal, and record keeping of medications and biologicals.

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B. Any pharmacy services within the hospice facility shall be provided by or under the direction of a pharmacist in accordance with accepted professional principles and appropriate local, state, and federal laws and regulations.

C. Hospice facilities that maintain stocks of legend medications and biologicals for dispensing to patients shall obtain and maintain a valid, current pharmacy permit from the S.C. Board of Pharmacy. Nonlegend medications which can be purchased without a prescription such as aspirin, milk of magnesia and mineral oil, may be retained as stock in the hospice facility for administration as ordered by the attending physician.

D. Labeling of medications dispensed to patients shall be in compliance with local, state, and federal laws and regulations, to include expiration date.

E. The pharmaceutical services shall establish procedures for control and accountability of all medications and biologicals throughout the facility. Medications shall be dispensed in compliance with federal and state laws. Records of receipt and disposition of all controlled substances shall be maintained in sufficient detail to enable an accurate reconciliation.

1506. Medication Containers (I)

Medications for patients shall be obtained from a permitted pharmacy or prescriber on an individual prescription basis. These medications shall bear a label affixed to the container which reflects at least the following: name of pharmacy, name of patient, name of the prescribing physician or other authorized healthcare provider, date and prescription number, directions for use, and the name and dosage unit of the medication. The label shall be in accord with the directions of the physician or other authorized healthcare provider each time the prescription is refilled. Medication containers having soiled, damaged, incomplete, illegible, or makeshift labels shall be returned to the pharmacy for re-labeling or disposal.

1507. Medication Storage (I)

A. Medications shall be properly stored and safeguarded to prevent access by unauthorized persons. Expired or discontinued medications shall not be stored with current medications. Storage areas shall be locked and of sufficient size for clean and orderly storage. Storage areas shall not be located near sources of heat, humidity, or other hazards that may negatively impact medication effectiveness or shelf life. Medications requiring refrigeration shall be stored in a refrigerator at the temperature established by the U.S. Pharmacopeia (36 - 46 degrees F.). If a multi-use refrigerator is used to store medications outside the secured medication storage area, a separate locked box shall be used to store medications, provided the refrigerator is near the medication storage area.

B. Medications shall be stored:

1. Separately from poisonous substances or body fluids;
2. In a manner which provides for separation between topical and oral medications and which provides for separation of each individual patient's medication.

C. A record of the stock and distribution of all controlled substances shall be maintained in such a manner that the disposition of each dose of any particular item may be readily traced.

D. Unless the hospice facility has a permitted pharmacy, legend medications shall not be stored except those specifically prescribed for individual patients. Nonlegend medications that can be obtained without a prescription may be retained and labeled as stock in the hospice facility for administration as ordered by a physician or other authorized healthcare provider.

1508. Disposition of Medications (I)

A. Upon discharge of a patient, unused medications shall be released to the patient, family member, or responsible party, as appropriate, unless specifically prohibited by the attending physician or other authorized healthcare provider.

B. Patients' medications shall be destroyed by the hospice facility administrator or his or her designee or returned to the dispensing pharmacy when:

1. Medication has deteriorated or exceeded its expiration date;

2. Unused or expired portions remain due to death or discharge of the patient, or discontinuance of the medication. Medications that have been discontinued by order may be stored for a period not to exceed 30 days provided they are to be stored separately from current medications.

C. The destruction of medication shall occur within five days of the above-mentioned circumstances, be witnessed by the administrator or his or her designee, the mode of destruction indicated, and these steps documented. Destruction records shall be retained by the hospice facility for a period of two years.

D. The destruction of controlled substances shall be accomplished only by the administrator or his or her designee on-site and witnessed by a licensed nurse or pharmacist, or by returning them to the dispensing pharmacy and obtaining a receipt from the pharmacy.

E. Expired biologicals, medical supplies, and solutions shall be disposed of in accord with hospice facility policy.

SECTION 1600 - MEAL SERVICE**1601. General (II)**

A. All hospice facilities that prepare food on-site shall be approved by the Division of Health Licensing and shall be regulated, inspected, and graded pursuant to R.61-25. Hospice facilities preparing food on-site and licensed for 16 beds or more subsequent to the promulgation of these regulations shall have commercial kitchens.

B. When meals are catered to a hospice facility, such meals shall be obtained from a food service establishment graded by the Department, pursuant to R.61-25, and there shall be a written executed contract with the food service establishment.

1602. Meals and Services

A. All hospice facilities shall provide dietary services to meet the daily nutritional needs of the patients in accordance with the recommended dietary allowances of the Food and Nutrition Board of the National Research Council, National Academy of Sciences. (II)

B. The dining area shall provide a congenial and relaxed environment. Table service shall be planned in an attractive and colorful manner for each meal and shall include full place settings with napkins, tablecloths or placemats, and nondisposable forks, spoons, knives, drink containers, plates, and other eating utensils/containers as needed.

C. Unless otherwise directed by the patient's physician or other authorized healthcare provider or by the wishes of the patient, a minimum of three nutritionally-adequate meals, in accordance with Section 1602.A above, in each 24-hour period shall be provided for each patient. Professional judgment may dictate that meal service is

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adjusted to meet variations in the condition of individual patients. This may include offering smaller, more frequent meals, or snacks, or postponing meals to honor a patient's request (*e.g.*, to sleep or not to eat). Not more than 14 hours shall elapse between the serving of the evening meal and breakfast the following day. (II)

D. Special attention shall be given to preparation and prompt serving in order to maintain correct food temperatures for serving. (II)

E. Suitable food and snacks shall be available and offered between meals at no additional cost to the patients. (II)

F. Tray service shall be permitted when the patient is medically unable to access the dining area for meals or if the hospice facility has received notice from the patient of a preference to receive tray service.

1603. Meal Service Staff (II)

A. Sufficient staff members/volunteers shall be available to serve food and to provide individual attention and assistance, as needed.

B. Approved hair restraints (covering all loose hair) shall be worn by all individuals engaged in the preparation of foods.

1604. Diets

A. If the hospice facility accepts or retains patients in need of medically-prescribed special diets, the menus for such diets shall be planned by a professionally-qualified dietitian or shall be reviewed and approved by a physician or other authorized healthcare provider. The hospice facility shall provide supervision of the preparation and serving of any special diet, *e.g.*, low-sodium, low-fat, 1200-calorie, diabetic diet. (II)

EXCEPTION: Nonadherence to the special diet shall be acceptable provided there is written consent to such nonadherence from the patient or family/responsible party and the physician.

B. If special diets are required, the necessary equipment for preparation of those diets shall be available and utilized.

C. A diet manual published within the previous five years shall be available and shall address at minimum:

1. Food sources and food quality;
2. Food protection storage, preparation and service;
3. Food worker health and cleanliness;
4. Recommended dietary allowances of the Food and Nutrition Board of the National Research Council, National Academy of Sciences USDA food serving recommendations;
5. General menu planning;
6. Menu planning appropriate to special needs, *e.g.*, diabetic, low-salt, low-cholesterol, or other diets appropriate for the elderly and/or infirmed.

1605. Menus

A. Menus shall be planned and written at a minimum of one week in advance and dated as served. The current week's menu, including routine and special diets and any substitutions or changes made, shall be readily

available and posted in one or more conspicuous places in a public area. All substitutions made on the master menu shall be recorded in writing.

B. Records of menus as served shall be maintained for at least 30 days.

1606. Ice and Drinking Water (II)

A. Ice from a water system that is in accordance with R.61-58 shall be available and precautions taken to prevent contamination. The ice scoop shall be stored in a sanitary manner outside the ice container.

B. Potable drinking water shall be available and accessible to patients at all times.

C. The use of common cups shall be prohibited.

D. Ice delivered to patient areas in bulk shall be in nonporous, covered containers that shall be cleaned after each use.

1607. Equipment (II)

A. Liquid or powder soap dispensers and sanitary paper towels shall be available at each food service handwash lavatory.

B. In hospice facilities of 16 or more licensed beds, separate handwash sinks shall be provided, convenient to serving, food preparation, and dishwashing areas.

C. All walk-in refrigerators and freezers shall be equipped with opening devices which will permit opening of the door from the inside at all times. (I)

1608. Refuse Storage and Disposal (II)

Refuse storage and disposal shall be in accordance with R.61-25.

SECTION 1700 - EMERGENCY PROCEDURES/DISASTER PREPAREDNESS

1701. Disaster Preparedness (II)

A. All facilities shall develop, in coordination with their county emergency preparedness agency, a suitable written plan for actions to be taken in the event of a disaster. Prior to initial licensing of a hospice facility, the completed plan shall be submitted to the Division of Health Licensing for review. Additionally, in instances where there are applications for increases in licensed bed capacity, the emergency/disaster plan shall be updated to reflect the proposed new total licensed bed capacity. All staff members/volunteers shall be made familiar with this plan and instructed as to any required actions. A copy of the disaster plan shall be provided to the patient/patient's sponsor at the time of admission.

B. The disaster plan shall include, but not be limited to:

1. A sheltering plan to include:

a. The licensed bed capacity and average occupancy rate;

b. Name, address and phone number of the sheltering locations to which the patients will be relocated during a disaster;

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c. A letter of agreement signed by an authorized representative of each sheltering location which shall include: the number of relocated patients that can be accommodated; sleeping, feeding, and medication plans for the relocated patients; and provisions for accommodating relocated staff members/volunteers. The letter shall be updated annually with the sheltering facility and whenever significant changes occur. For those facilities located in Beaufort, Berkeley, Charleston, Colleton, Dorchester, Horry, Jasper, and Georgetown counties, at least one sheltering facility shall be located in a county other than these counties.

2. A transportation plan, to include agreements with entities for relocating patients, which addresses:

- a. Number and type of vehicles required;
- b. How and when the vehicles are to be obtained;
- c. Who (by name or organization) will provide drivers;
- d. Procedures for providing appropriate medical support and medications during relocation;
- e. Estimated time to accomplish the relocation;
- f. Primary and secondary routes to be taken to the sheltering facility.

3. A staffing plan for the relocated patients, to include:

- a. How care will be provided to the relocated patients, including the number and type of staff members;
- b. Plans for relocating staff members or assuring transportation to the sheltering facility;
- c. Co-signed statement by an authorized representative of the sheltering facility if staffing is to be provided by the sheltering facility.

1702. Emergency Call Numbers (II)

Emergency call data shall be posted in a conspicuous place and shall include at least the telephone numbers of fire and police departments, ambulance service, and the poison control center. Other emergency call information shall be available, to include the names, addresses, and telephone numbers of staff members/volunteers to be notified in case of emergency.

1703. Continuity of Essential Services (II)

There shall be a plan implemented to assure the continuation of essential patient support services in case of power outage, water shortage, or in the event of the absence from work of any portion of the workforce resulting from inclement weather or other causes.

1704. Safety Precautions/Restraints (I)

A. Periodic or continuous mechanical or physical restraints during routine care of a patient shall not be used, nor shall patients be restrained for staff convenience or as a substitute for care/treatment/services. However, in cases of extreme emergencies when a patient is a danger to him or herself or others, mechanical and/or physical restraints may be used as ordered by a physician or other authorized healthcare provider.

B. Only those devices specifically designed as restraints may be used. Makeshift restraints shall not be used under any circumstance.

C. Emergency restraint orders shall specify the reason for the use of the restraint, the type of restraint to be used, the maximum time the restraint may be used, and instructions for observing the patient while restrained, if different from the hospice facility's written procedures.

D. During emergency restraint, patients shall be monitored at least every hour. Prescribed medications and treatments shall be administered as ordered and nourishment and fluids provided as needed.

SECTION 1800 - FIRE PREVENTION

1801. Arrangements for Fire Department Response/Protection (I)

A. Each hospice facility shall develop, in coordination with its supporting fire department and/or disaster preparedness agency, suitable written plans for actions to be taken in the event of fire, *i.e.*, fire plan and evacuation plan.

B. Hospice facilities located outside of a service area or range of a public fire department shall arrange by written agreement with the nearest fire department for it to respond in case of fire. A copy of the agreement shall be kept on file in the hospice facility and a copy shall be forwarded to the Division of Health Licensing. If the agreement is changed, a copy shall be forwarded to the Division of Health Licensing.

1802. Tests and Inspections (I)

A. Fire protection and suppression systems shall be maintained and tested in accordance with NFPA 10, 13, 14, 15, 25, 70, 72, and 96.

B. All electrical installations and equipment shall be maintained in a safe, operable condition in accordance with NFPA 70 and 99 and shall be inspected at least annually.

1803. Fire Response Training (I)

A. Each staff member/volunteer shall receive training within 24 hours of his or her first day on duty in the hospice facility and at least annually thereafter, addressing at a minimum, the following:

1. Fire plan, including the training of staff members/volunteers;
2. Fire evacuation plan, including routes and procedures;
3. Reporting a fire;
4. Use of the fire alarm system;
5. Location and use of fire-fighting equipment;
6. Methods of fire containment;
7. Specific responsibilities, tasks, or duties of each individual.

B. A plan for the evacuation of patients, staff members, and visitors, to include evacuation routes and procedures, in case of fire or other emergencies, shall be established and posted in conspicuous public areas throughout the facility, and a copy of the plan shall be provided to each patient and/or the patient's sponsor at the time of admission.

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1804. Fire Drills (I)

A. An unannounced fire drill shall be conducted at least once every three months for each shift. Each staff member/volunteer shall participate in a fire drill at least once each year. Records of drills shall be maintained at the facility, indicating the date, time, shift, description, and evaluation of the drill, and the names of staff members/volunteers and patients directly involved in responding to the drill. If fire drill requirements are mandated by statute or regulation, then provisions of the statute or regulation shall be complied with and shall supersede the provisions of Section 1804.

B. Drills shall be designed and conducted to evaluate the effectiveness of the plans and to assure that all staff/volunteers:

1. Are capable of performing assigned tasks and duties;
2. Know the location, use and operation of fire-fighting equipment;
3. Are familiar with the fire plan.

SECTION 1900 - MAINTENANCE

1901. General (II)

A. The structure, including its component parts and equipment, shall be properly maintained to perform the functions for which it is designed.

B. Noise, dust, and other related patient intrusions shall be minimized when construction/renovation activities are underway.

SECTION 2000 - ENVIRONMENT

2001. Housekeeping (II)

The hospice facility and its grounds shall be neat, uncluttered, clean, and free of vermin and offensive odors.

A. Interior housekeeping shall at a minimum include:

1. Cleaning each specific area of the hospice facility;
2. Cleaning and disinfection, as needed, of equipment used and/or maintained in each area appropriate to the area and the equipment's purpose or use;
3. Safe storage of chemicals indicated as harmful on the product label, cleaning materials, and supplies in cabinets or well-lighted closets/rooms, inaccessible to patients. If a physician or other authorized healthcare provider has determined that a patient is capable of appropriately using a cleaning product or other hazardous agent, the hospice facility may elect to permit the patient to use the product, provided there is a written statement from a physician or other authorized healthcare provider that assures that the patient is capable of maintaining the product in a secure locked manner and that a description of product use is outlined in the patient's POC.

B. Exterior housekeeping shall at a minimum include:

1. Cleaning of all exterior areas, *e.g.*, porches and ramps, and removal of safety impediments such as snow and ice;

2. Keeping hospice facility grounds free of weeds, rubbish, overgrown landscaping, and other potential breeding sources for vermin.

2002. Pets (II)

A. If the hospice facility chooses to permit pets, healthy animals that are free of fleas, ticks, and intestinal parasites, and have been screened by a veterinarian prior to entering the hospice facility, have received required inoculations, if applicable, and that present no apparent threat to the health, safety, and well-being of the patients, may be permitted in the hospice facility, provided they are sufficiently fed and cared for and that both the pets and their housing are kept clean.

B. Pets shall not be allowed near patients who have allergic sensitivities to pets, or for other reasons such as patients who do not wish to have pets near them.

C. Pets shall not be allowed in the kitchen area. Pets shall be permitted in patient dining areas only during times when food is not being served. If the dining area is adjacent to a food preparation or storage area, those areas shall be effectively separated by walls and closed doors while pets are present.

D. If personal pets are permitted in the hospice facility, the housing of those pets shall be in either a patient private room or outside the hospice facility.

2003. Clean/Soiled Linen (II)

A. Clean Linen. A supply of clean, sanitary linen shall be available at all times. In order to prevent the contamination of clean linen by dust or other airborne particles or organisms, clean linen shall be stored and transported in a sanitary manner, *e.g.*, enclosed and covered. Clean linen storage rooms shall be used only for the storage of clean linen and other clean materials. Clean linen shall be separated from storage of other materials.

B. Soiled Linen.

1. Soiled linen shall neither be sorted, rinsed, nor washed outside of the laundry service area;
2. Provisions shall be made for collecting, transporting, and storing soiled linen;
3. Soiled linen shall be kept in enclosed/covered containers;
4. Laundry operations shall not be conducted in patient rooms, dining rooms, or in locations where food is prepared, served, or stored. Freezers/refrigerators may be stored in laundry areas, provided sanitary conditions are maintained.

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SECTION 2100 - DESIGN AND CONSTRUCTION

2101. General (II)

A. A hospice facility shall be planned, designed, and equipped to provide and promote the health, safety, and well-being of each patient. Hospice facility design shall be such that all patients have access to required services. There shall be 200 gross square feet per licensed bed in hospice facilities 10 beds or less, and in hospice facilities licensed for more than 10 beds, an additional 100 gross square feet per licensed bed.

B. Hospice facilities shall be in compliance with the building occupancy requirements of the Standard Building Code and the Life Safety Code.

2102. Local and State Codes and Standards (II)

A. Buildings shall comply with pertinent local and state laws, codes, ordinances, and standards with reference to design and construction. No hospice facility shall be licensed unless the Department has assurance that responsible local officials (zoning and building) have approved the hospice facility for code compliance.

B. The Department utilizes the basic codes indicated in Section 102.B.

C. Buildings designed in accordance with the above-referenced codes shall be acceptable to the Department provided the requirements set forth in this regulation are also met.

2103. Construction/Systems (II)

A. All buildings of hospice facilities, new and existing, being licensed for the first time, or changing their license to provide a different service, shall meet the current codes and regulations.

B. Unless specifically required otherwise in writing by the Department's Division of Health Facilities Construction, all existing hospice facilities shall meet the construction codes and regulations for the building and its essential equipment and systems in effect at the time the license was issued. Except for proposed hospice facilities that have received a current and valid written approval to begin construction, current construction codes, regulations, and requirements shall apply to those hospice facilities licensed after the date of promulgation of these regulations.

C. Any additions or renovations to an existing licensed hospice facility shall meet the codes, regulations, and requirements for the building and its essential equipment and systems in effect at the time of the addition or renovation. When the cost of additions or renovations to the building exceeds 50% of the then market value of the existing building and its essential equipment and systems, the building shall meet the then current codes, regulations, and requirements.

D. Buildings of hospice facilities under construction at the time of promulgation of these regulations shall meet the codes, regulations, and requirements in effect at the time of the plan's approval.

E. Any hospice facility that closes or has its license revoked, and for which application for re-licensure is made at the same site, shall be considered a new building and shall meet the current codes, regulations, and requirements for the building and its essential equipment and systems in effect at the time of application for re-licensing.

2104. Submission of Plans and Specifications

A. In all new construction or existing structures proposed to be licensed by the Department, plans and specifications shall be submitted to the Division of Health Facilities Construction for review and approval.

B. Any building which is being licensed for the first time will be considered “new” construction and must meet current codes.

C. If the start of construction is delayed for a period exceeding 12 months from the time of approval of final submission, a new evaluation and/or approval is required.

D. One complete set of “as-built” drawings shall be filed with the Division of Health Facilities Construction.

E. Where the SBC or other regulations require fire-rated walls or other fire-rated structural elements, these plans and specifications shall be prepared by an architect and shall bear his or her seal. Plans for a hospice facility with five beds or less shall be drawn to scale; however, preparation by an architect is not required.

F. Construction of buildings, or within buildings of 5000 square feet or more, or buildings three stories or more in height, and involving construction of fire-rated assemblies, must, in addition to Section 2104.E above, provide the Minimum Construction Administration Services, as defined in Regulation 11-12, Code of Professional Ethics, published by The Board of Architectural Examiners, S.C. Department of Labor, Licensing, and Regulation.

G. When construction is contemplated for additions or alterations to existing licensed buildings, the hospice facility shall contact the Division of Health Facilities Construction regarding code and regulatory requirements that apply to that project. Plans and specifications shall be submitted to that division for review.

H. If within a 12-month period any alterations or renovations costing in excess of 50 percent of the then physical market value of the building are made to an existing facility, then the entire facility shall be made to conform with the requirements of current building code editions for new facility construction and to Department standards.

I. All plans shall be drawn to scale with the title, location, and date indicated thereon.

J. Construction work shall not begin until approval of the final drawings or written permission has been received from DFHC. Any construction deviations from the approved documents shall be approved by DFHC.

K. Plans and specifications are reviewed as necessary to obtain a set of approvable drawings showing all necessary information. Submission of plans for review may be made in stages. The final drawings shall include a complete set of contract documents properly signed and “wet” sealed, including working drawings and contract specifications to include:

1. Cover sheet:
 - a. Title and location of project;
 - b. Index of drawings;
 - c. Code analysis listing applicable codes;

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- d. Occupancy classification;
 - e. Type of construction;
 - f. Legend and notes and symbols for pertinent information.
2. Site plan:
- a. Site preparation;
 - b. Size and shape of the site;
 - c. Footprint of the proposed building and/or addition on the site;
 - d. Vehicular and pedestrian access to and on the site;
 - e. Existing utilities for or to the site;
 - f. Spot elevations and general information on the lay of the land (rivers, creeks, ridges, swamps, etc.);
 - g. Existing structures (buildings, foundations, retaining walls, above and underground storage tanks, etc.);
 - h. Vehicular movement, parking areas (total number of spaces), sidewalks, etc.;
 - i Existing and proposed contours;
 - j. All utilities to the facility (including water supply available for fire protection).
3. Floor plan(s):
- a. Complete plans drawn to scale with basic and overall dimensions of rooms and room designations;
 - b. Demolition plan (if required) including asbestos survey, (if required);
 - c. Life safety plan showing smoke compartments and all fire rated walls. Indicate proper delineation of rated walls (fire walls, smoke partitions, exits and exit calculations, etc.);
 - d. Door swings and sizes;
 - e. Fixed equipment locations;
 - f. Details;
 - g. Building section(s) - exterior and interior wall sections, as applicable;
 - h. Indication of type of construction and required fire ratings of all assemblies;

- i. Type of structural system.
4. Mechanical:
- a. Plumbing;
 - b. Fixture locations, risers and pipe chases;
 - c. Type and location of equipment;
 - d. Supplies returns, and exhausts.
5. Electrical:
- a. Lighting;
 - b. Power;
 - c. Communication (nurse call, fire alarm);
 - d. Electrical riser diagrams.
6. Fire Protection (sprinkler).
7. Separate Kitchen Plan (if the facility prepares meals):
- a. In facilities of four beds or more, food service operations shall be separated from living and sleeping quarters by complete, ceiling-high walls, and solid, self-closing doors. (II)
 - b. Kitchen ventilation specifications shall be in compliance with Section 2801.G.
 - c. Construction of commercial kitchens (meals prepared for 16 or more persons), shall be in compliance with Chapter VII (A - G) of R.61-25, and a separate floor plan shall be provided depicting:
 - (1) Location of all equipment;
 - (2) Make and model number of all equipment (including a thermometer schedule).
All equipment used for the preparation and storage of food shall be that approved by the NSF;
 - (3) Garbage can wash pad on exterior with hot and cold running water;
 - (4) Grease interceptor;
 - (5) Floor drains;
 - (6) Separate hand washing sinks;
 - (7) Toilet and locker facilities for kitchen staff/volunteers;

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(8) Exhaust hood and duct system to the outside;

(9) Hood extinguishing system.

d. Plan submission for domestic kitchens (meals prepared for 15 or fewer persons) shall include:

(1) Location and identification of all equipment;

(2) An approved three-compartment sink in addition to a hand washing sink;

(3) An exhaust hood and fan of proper size installed over all cooking equipment and vented to the outside.

e. Exhaust hoods shall have an approved hood extinguisher system.

SECTION 2200 - GENERAL CONSTRUCTION REQUIREMENTS

2201. Height and Area Limitations (II)

Construction shall not exceed the allowable heights and areas provided by the SBC.

2202. Fire-Resistive Rating (I)

The fire-resistive ratings for the various structural components shall comply with the SBC. Fire-resistive ratings of various materials and assemblies not specifically listed in the SBC can be found in publications of recognized testing agencies such as Underwriters Laboratories - Building Materials List and Underwriters Laboratories - Fire Resistance Directory.

2203. Vertical Openings (I)

All vertical openings shall be protected in accordance with applicable sections of the SBC, State Fire Marshal Regulations, and NFPA 101.

2204. Wall and Partition Openings (I)

All wall and partition openings shall be protected in accordance with applicable sections of the SBC and NFPA 101.

2205. Ceiling Openings (I)

Openings into attic areas or other concealed spaces shall be protected by material consistent with the fire rating of the assembly they penetrated.

2206. Firewalls (I)

A. A building is defined by the outside walls and any interior four-hour firewalls and shall not exceed the height and area limitations set forth in the SBC for the type of construction.

B. An addition shall be separated from an existing building by a two-hour, fire-rated wall unless the addition is of equal fire-resistive rating.

C. When an addition is to be constructed of a different type of construction from the existing building, the type of construction and resulting maximum area and height limitations allowed by the SBC shall be determined by the lesser of the types of construction of the building.

D. If the addition is separated by a four-hour firewall, the addition is considered as a separate building, and the type of construction of the addition shall determine the maximum area and height limitations.

2207. Floor Finishes (II)

A. Floor coverings and finishes shall meet the requirements of the SBC.

B. All floor coverings and finishes shall be appropriate for use in each area of the facility and free of hazards, *e.g.*, slippery surfaces. Floor finishes shall be composed of materials that permit frequent cleaning, and, when appropriate, disinfection.

2208. Wall Finishes (I)

A. Wall finishes shall meet the requirements of the SBC.

B. Manufacturers' certifications or documentation of treatment for flame spread and other safety criteria shall be furnished and maintained.

2209. Curtains and Draperies (II)

In bathrooms and patient rooms, window treatments shall provide privacy.

SECTION 2300 - HAZARDOUS ELEMENTS OF CONSTRUCTION

2301. Furnaces and Boilers (I)

Furnaces and boilers shall be maintained in accordance with the applicable provisions of NFPA 31, 70, 85C, and 86.

2302. Dampers (I)

Smoke and fire dampers shall be installed on all heating, ventilating, and air conditioning systems as required by NFPA 90A and the SBC.

SECTION 2400 - FIRE PROTECTION EQUIPMENT AND SYSTEMS

2401. Firefighting Equipment (I)

A. Fire extinguishers shall be sized, located, installed, and maintained in accordance with NFPA No. 10, except that portable fire extinguishers intended for use in patient sleeping areas shall be of the 2-A, 2-1/2 gallon, stored-pressure water type.

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B. At least one 4-A:20-BC-type fire extinguisher shall be installed in the following hazardous areas:

1. Laundry;
2. Furnace room;
3. Any other area having a high-risk fire hazard.

C. At least one 2-A:10-BC-type fire extinguisher shall be located within 25 feet of exits and no more than 75 feet travel distance.

D. The kitchen shall be equipped with a minimum of one K-type and one 20-BC-type fire extinguisher.

2402. Automatic Sprinkler System (I)

A. Facilities licensed under these standards shall be provided throughout with an automatic sprinkler system in accordance with NFPA 13, "Standards for the Installation of Sprinkler Systems."

B. All sprinkler systems, wet and dry, shall have remote inspection/test ports.

2403. Fire Alarms (I)

A. An automatic/manual fire alarm system shall be provided in accordance with provisions of National Fire Alarm Code (NFPA 72), the SBC, and the State Fire Marshal Regulations.

B. The system shall be arranged to transmit an alarm automatically to the fire department by an approved method.

C. The alarm system shall notify by audible and visual alarm all areas and floors of the building.

D. The alarm system shall cause the central re-circulating ventilation fans that serve the area(s) of alarm origination to cease operation and to shut the associated smoke dampers.

E. The fire alarm pull-station shall be placed in an area in accordance with NFPA 72. A pull-station shall be placed at or near the work station.

F. All fire, smoke, heat, sprinkler-flow, fire-sensing detectors, manual pull-stations, hold-open devices on fire-rated doors, alarming devices or other fire-related systems shall be connected to and monitored by the main fire alarm system and activate the general alarm when any of these devices are activated.

G. The fire alarm system shall have the main fire alarm located at a readily accessible location. An audible/visual trouble indicator shall be located where it can be observed by staff members/volunteers.

H. The fire alarm system shall be tested initially by an individual licensed to install fire alarms and at least annually thereafter.

I. When a fire alarm system is required and smoke detectors are placed in patient sleeping rooms, there shall be an indicator light in the hall outside the door of the room to indicate when that smoke detector is activated.

J. All smoke detectors shall be electrically interconnected to the fire alarm system as well as to the hold open devices on smoke doors and fire doors within a fire zone.

K. Where smoke detectors are required in all sleeping rooms, the detectors will be powered by the fire alarm system, connected to the fire alarm system and have an indicator light in the hall above the room door indicating when the detector is in alarm.

2404. Smoke Detectors (I)

Smoke detectors shall be installed in accordance with NFPA 72, State Fire Marshal Regulations, and the SBC.

2405. Flammable Liquids (I)

A. The storage and handling of flammable liquids shall be in accordance with NFPA 30 and 99.

B. Flammable liquids such as gasoline, oil, paints, solvents, etc. shall be stored in an outside building or in a one-hour fire separated room opening to the outside. Mechanical or gravity ventilation for the room shall be taken from, and exhausted to, the outside.

2406. Gases (I)

A. Gases, *i.e.*, flammable and nonflammable, shall be handled and stored in accordance with the provisions of NFPA 99 and 101.

B. Safety precautions shall be taken against fire and other hazards when oxygen is dispensed, administered, or stored. "No Smoking" signs shall be posted conspicuously, and cylinders shall be properly secured in place.

2407. Furnishings/Equipment (I)

A. The physical plant shall be maintained free of fire hazards or impediments to fire prevention.

B. No portable electric or unvented fuel heaters shall be permitted in the hospice facility.

C. Fireplaces and fossil-fuel stoves, *e.g.*, wood-burning, shall have partitions or screens or other means to prevent burns. Fireplaces shall be vented to the outside. Unvented gas logs are not allowed. Gas fireplaces shall have a remote gas shutoff within the room and not inside the fireplace.

D. Wastebaskets, window dressings, portable partitions, cubicle curtains, mattresses, and pillows shall be noncombustible, inherently flame-resistant, or treated or maintained flame-resistant in accordance with NFPA 701, Standard Methods of Fire Tests for Flame-Resistant Textiles and Films.

EXCEPTION: Window blinds require no flame treatments or documentation thereof.

SECTION 2500 - EXITS**2501. Number and Locations of Exits (I)**

A. Exits, corridors, doors, stairs, ramp, and smoke partitions shall be provided, installed, and maintained in accordance with the provisions of NFPA 101 and the SBC.

B. Rooms and/or suites greater than 1000 square feet shall have at least two exit doors remote from each other.

C. If exit doors and cross-corridor doors are locked, the requirements for Special Locking Arrangements in the SBC shall be met.

D. Halls, corridors and all other means of egress from the building shall be maintained free of obstructions.

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SECTION 2600 - WATER SUPPLY/HYGIENE

2601. Design and Construction (II)

A. A water distribution system, provided by a public or private source, shall be approved by the Department's Bureau of Water before the hospice facility can be constructed and/or placed into operation. (I)

B. Before the construction, expansion, or modification of a water distribution system, application shall be made to the Department for a Permit for Construction. The application shall include such engineering, chemical, physical, or bacteriological data as may be required by the Department and shall be accompanied by engineering plans, drawings, and specifications prepared by an engineer registered in S.C. and shall include his or her signature and official seal.

C. In general, the design and construction of such systems shall be in accordance with standard engineering practices for such installations. The Department shall establish such rules, regulations, and/or procedures as may be necessary to protect the health of the public and to insure proper operation and functioning of the system. The hospice facility's water system shall be in compliance with R.61-58 and other local, state, and federal laws and regulations.

D. Patient and staff hand washing lavatories and patient showers/tubs shall be supplied with hot and cold water at all times.

E. Storage tanks shall be fabricated of corrosion-resistant metal or lined with noncorrosive material.

2602. Disinfection of Water Lines (I)

A. After construction, expansion, or modification, a water distribution system shall be disinfected in accordance with R.61-58.

B. Samples shall be taken from the water system and forwarded to an approved laboratory for bacteriological analysis in accordance with R.61-58. The water shall not be used as a potable supply until certified as satisfactory.

2603. Temperature Control (I)

A. Plumbing fixtures that require hot water and which are accessible to patients shall be supplied with water that is thermostatically controlled to a temperature of at least 100 degrees F. and not to exceed 120 degrees F. at the fixture.

B. The water heater or combination of heaters shall be sized to provide at least six gallons per hour per bed at the above temperature range. (II)

C. Hot water supplied to the kitchen equipment/utensil washing sink shall be supplied at 120 degrees provided all kitchen equipment/utensils are chemically sanitized. For those hospice facilities sanitizing with hot water, the sanitizing compartment of the kitchen equipment/utensil washing sink shall be capable of maintaining the water at a temperature of at least 180 degrees F.

D. Hot water provided for washing linen shall not be less than 160 degrees F. Should chlorine additives or other chemicals which contribute to the margin of safety in disinfecting linen be a part of the washing cycle, the minimum hot water temperature shall not be less than 110 degrees F., provided hot air drying is used. (II)

2604. Stop Valves

Each plumbing fixture shall have stop valves to permit repairs without disrupting service to other fixtures. Each group of fixtures on a floor, each branch main, and each supply line shall be valved.

2605. Cross-connections (I)

There shall be no cross-connections in plumbing between safe and potentially unsafe water supplies. Water shall be delivered at least two delivery pipe diameters above the rim or points of overflow to each fixture, equipment, or service unless protected against back-siphonage by approved vacuum breakers or other approved back-flow preventers. A faucet or fixture to which a hose may be attached shall have an approved vacuum breaker or other approved back-flow preventer.

2606. Design and Construction of Wastewater Systems (I)

A. A wastewater system, provided by a public or private source, shall be approved by the Department's Bureau of Water before the hospice facility can be constructed and/or begins operation.

B. Plans, specifications, reports and studies, for the construction, expansion or alteration of a wastewater system shall be prepared by an engineer registered in S.C. and shall carry his or her signature and official seal.

C. The design and construction of wastewater systems shall be in accordance with standard engineering practice and R.61-67.

D. The wastewater system for commercial kitchens shall be in accordance with R.61-25.

E. Liquid waste shall be disposed of in a wastewater system approved by the local authority, *e.g.*, sewage treatment facility.

SECTION 2700 - ELECTRICAL

2701. General (I)

A. Electrical installations shall be in accordance with the NFPA 70 and 99.

B. Electrical installations shall be in accordance with the National Electrical Code and shall be tested to show that the equipment is installed and operates as planned or specified.

C. Wiring shall be inspected at least every two years by a licensed electrician, registered engineer, or certified building inspector.

D. All materials shall be listed as complying with available standards of Underwriters Laboratories, Inc. or other similarly established standards.

E. New systems shall be tested to indicate that the equipment is installed and operates as planned or specified.

2702. Panelboards (II)

Panelboards shall be in accordance with NFPA 70. Panelboards serving lighting and appliance circuits shall be located on the same floor as the circuits served. This requirement does not apply to life safety system circuits. The directory shall be labeled to conform to the actual room designations. Clear access to the panel shall be maintained, as per NFPA 70. The panelboard directory shall be labeled to conform to the actual room numbers or designations.

2703. Lighting

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A. Spaces occupied by persons, machinery, equipment within buildings, approaches to buildings, and parking lots shall be lighted. (II)

B. Adequate artificial light shall be provided to include sufficient illumination for reading, observation, and activities. There shall be a minimum of 35 foot-candles in areas used for reading, study, or close work. Lighting in work areas shall not be less than 30 foot-candles.

C. Patient rooms shall have general lighting that provides a minimum of 20 foot-candles in all parts of the room and shall have at least one light fixture for night lighting. A reading light shall be provided for each patient. The switches to the general and night lighting shall be located at the strike side of the entrance door in each patient room and shall be of the quiet operating type.

D. All food preparation areas, equipment and utensil washing areas, hand washing areas, toilet areas for kitchen staff/volunteers, walk-in refrigeration units, dry food storage areas, and dining areas during cleaning operation shall be lighted in accordance with R.61-25.

E. Hallways, stairs, and other means of egress shall be lighted at all times in accordance with NFPA 101, *i.e.*, at a minimum, an average of one foot-candle at floor level. (I)

2704. Receptacles (II)

A. Each patient room shall have duplex grounding type receptacles located per NFPA 70, to include one at the head of each bed.

B. Each patient bed location shall have a minimum of four single or two duplex receptacles.

C. Each patient bed location shall be supplied by at least two branch circuits.

D. Duplex receptacles for general use shall be installed approximately 50 feet apart in all corridors and within 25 feet of the ends of corridors.

2705. Ground Fault Protection (I)

A. Ground fault circuit-interrupter protection shall be provided for all outside receptacles and bathrooms in accordance with the provisions of NFPA 70.

B. Ground fault circuit-interrupter protection shall be provided for any receptacles within six feet of a sink or any other wet location. If the sink is an integral part of the metal splashboard grounded by the sink, the entire metal area is considered part of the wet location.

2706. Exit Signs (I)

A. In hospice facilities licensed for six or more beds, required exits and ways to access thereto shall be identified by electrically-illuminated exit signs bearing the words "Exit" in red letters, six inches in height, on a white background.

B. Changes in egress direction shall be marked with exit signs with directional arrows.

C. Exit signs in corridors shall be provided to indicate two directions of exit.

2707. Emergency Electric Service (I)

A. Emergency electrical service shall be provided to the distribution system as follows:

1. Illumination for means of egress and work stations;
 2. Illumination for exit signs and exit directional signs;
 3. In patient care areas (duplex receptacles in corridors or in patients' rooms);
 4. Signal system;
 5. Equipment necessary for maintaining telephone service;
 6. Elevator service that will reach every patient floor when rooms are located on those other than the ground floor. Throw-over facilities shall be provided to allow temporary operation of any elevator for release of persons that may be trapped between floors, if applicable;
 7. Fire pump, if applicable;
 8. Equipment for heating patient rooms and maintaining a minimum temperature of 72 degrees F;
 9. Public restrooms;
 10. Essential mechanical rooms;
 11. General illumination and a receptacle in the vicinity of the generator set, if applicable;
 12. Alarm systems, including fire alarm systems, water flow alarm devices, and alarms required for medical gas systems.
- B. The emergency power shall be in operation within 10 seconds after interruption of the normal electric power supply.
- C. Receptacles and switches connected to emergency power shall be distinctively marked.
- D. On-site fuel storage shall have capacity to sustain generator operation for at least 24 hours.
- E. Emergency generators shall be operated weekly for at least 30 minutes and shall be operated at least monthly under load for at least 30 minutes.
- F. Logs shall be maintained of the emergency generator tests.

SECTION 2800 - HEATING, VENTILATION, AND AIR CONDITIONING

2801. General (II)

- A. Heating, ventilation, and air conditioning (HVAC) systems shall comply with NFPA 90A and all other applicable codes.
- B. The HVAC system shall be inspected at least once a year by a certified/licensed technician.
- C. The hospice facility shall maintain a temperature of between 72 and 78 degrees F. in patient areas.
- D. No HVAC supply or return grill shall be installed within three feet of a smoke detector. (I)

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E. HVAC grills shall not be installed in floors.

F. Intake air ducts shall be filtered and maintained to prevent the entrance of dust, dirt, and other contaminating materials. Minimum filter efficiency is 20%. The system shall not discharge in a manner that would be an irritant to the patients/staff/volunteers.

G. All kitchen areas shall be adequately ventilated in order for all areas to be kept free from excessive heat, steam, condensation, vapors, smoke, and fumes.

H. Each bath/restroom shall be mechanical ventilation with a minimum of 10 air changes per hour.

I. The soiled linen storage room shall be ventilated with mechanical exhaust directly outside the building.

J. Laundry rooms shall be ventilated to prevent transmission of noise, heat, steam, and odors to patient areas. Clean and soiled linen/clothing shall be separated with necessary walls and/or ventilation to prevent cross-contamination.

K. Corridors shall not be used to supply air to or exhaust air from any room.

EXCEPTION: Air from corridors may be used to supply ventilation air via undercut doors for toilet rooms, janitors' closets, and small electrical or telephone closets opening directly onto corridors.

SECTION 2900 - PHYSICAL PLANT

2901. Facility Accommodations (II)

The facility shall provide an attractive, homelike, and comfortable environment. There shall be homelike characteristics throughout the facility such as, but not limited to, pictures, books, magazines, clocks, plants, current calendars, stereos, television, and appropriate holiday or seasonal decorations.

2902. Common Areas

There shall be a minimum of 30 square feet per bed of living, recreational, and dining area combined, excluding bedrooms, halls, kitchens, bathrooms, and rooms not available to the patients.

A. All required care/treatment/services furnished at the facility shall be provided in a manner which does not require patients to ambulate from one site to another outside the building(s), nor which impedes patients from ambulating from one site to another due to the presence of physical barriers.

B. Methods for ensuring visual and auditory privacy between patient and staff/volunteers/visitors shall be provided as necessary.

C. Physical space for private patient/family/responsible party visiting shall be provided;

D. Accommodations for family privacy after a patient's death shall be provided;

2903. Patient Rooms

A. With the exception of furniture (unless otherwise allowed by facility policy), a patient shall have the choice to bring familiar items from home as part of the furnishing to his or her room, *e.g.*, wall pictures, paintings, vases, etc. Each patient room shall be equipped with the following as a minimum for each patient:

1. A comfortable single bed having a mattress with moisture-proof cover, sheets, blankets, bedspread, pillow, and pillowcases; roll-away type beds, cots, bunkbeds, and folding beds shall not be used. It is permissible to utilize a recliner in lieu of a bed or remove a patient bed and place the mattress on a platform or pallet provided the physician or other authorized healthcare provider has approved it and the decision is documented in the POC. (II)

EXCEPTION: In the case of a married couple sharing the same room, a double bed is permitted if requested. For all other requirements, this shall be considered a bedroom with two beds. A roll-away type bed or cot may be temporarily used for family/responsible party staying overnight with the patient.

2. A closet or wardrobe, a bureau consisting of at least three drawers, and a compartmentalized bedside table/nightstand to adequately accommodate each patient's personal clothing, belongings, and toilet articles shall be provided. Built-in storage is permitted.

EXCEPTION: In existing facilities, if square footage is limited, patients may share these storage areas; however, specific spaces within these storage areas shall be provided particular to each patient.

3. A comfortable chair shall be available for each patient occupying the room. In facilities licensed prior to the promulgation of this regulation, if the available square footage of the patient room will not accommodate a chair for each patient or if the provision of multiple chairs impedes patient ability to freely and safely move about within their room, at least one chair shall be provided and provisions made to have additional chairs available for temporary use in the patient's room by visitors.

B. If hospital-type beds are used, there shall be at least two lockable casters on each bed, located either diagonally or on the same side of the bed.

C. Beds shall not be placed in corridors, solaria, or other locations not designated as patient room areas. (I)

D. No patient room shall contain more than two licensed beds. (II)

E. No patient room shall be located in a basement.

F. Access to a patient room shall not be by way of another patient room, toilet, bathroom, or kitchen.

EXCEPTION: Access to a patient room through the kitchen is permissible in facilities licensed for five beds or less.

G. Equipment such as bedpans, urinals, and hot water bottles, necessary to meet patient needs, shall be provided. Permanent positioning of a portable commode at bedside shall only be permitted if the room is private, the commode is maintained in a sanitary condition, and the room is of sufficient size to accommodate the commode. (II)

H. Side rails may be utilized when required for safety and when ordered by a physician or other authorized healthcare provider. When there are special concerns, *e.g.*, patients with Alzheimer's disease and/or related dementia, side rail usage shall be monitored by staff members as per facility policies and procedures. (I)

I. In semi-private rooms, when personal care is being provided, arrangements shall be made to ensure privacy, *e.g.*, portable partitions or cubicle curtains when needed or requested by a patient.

J. At least one private room shall be available in the facility in order to provide assistance in addressing patient compatibility issues, patient preferences, and accommodations for patients with communicable disease.

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K. Infants and small children shall not be assigned to a room with an adult patient unless requested by patients and families.

2904. Patient Room Floor Area

A. Each patient room shall be an outside room with an outside window or door for exit in case of emergency. This window or door shall not open onto a common area screened porch. (I)

B. The patient room floor area is a usable or net area and does not include wardrobes (built-in or freestanding), closets, or the entry alcove to the room. The following is the minimum floor space allowed: (II)

1. Rooms for only one patient: 100 square feet for the licensed bed (there shall be compliance with the minimum square footage requirements of Section 2904.B.2 in instances when family members/responsible party routinely utilize a separate bed for overnight stays with the patient);

2. Rooms for more than one patient: 80 square feet per licensed bed.

C. There shall be at least three feet between beds. (II)

2905. Visitor Accommodations

A. The hospice facility shall provide accommodations for family members/responsible party to remain throughout the night. Nighttime arrangements for visitors may be accomplished with guest rooms, or with accommodations within the patient room provided space is adequate for such an arrangement.

B. Visitor designated/guest rooms shall not be utilized by patients, prospective patients, or staff members of the facility.

C. No supervisory care shall be given to visitors of the facility, *e.g.*, first aid response by staff, tray service, etc.

D. Visitors shall be made aware of those provisions/accommodations available so that they may serve themselves, *e.g.*, towels, sheets, soap, etc.

E. Any conduct of the visitors which may have an adverse affect on the patients/facility must be promptly/prudently handled, *e.g.*, patient/staff abuse.

F. Those visiting as well as the patients with whom they are visiting shall be made fully aware of the conditions under which their stay is acceptable.

G. Adequate space shall be provided for the privacy of the family and significant others at the time of the patient's death.

2906. Bathrooms/Restrooms (II)

A. In bath/restrooms, the restroom floor area shall not be less than 15 square feet.

B. Toilets shall be provided in ample number to serve the needs of staff members/volunteers. The minimum number for patients shall be one toilet for each four licensed beds or fraction thereof.

C. In each bath/restroom there shall be at least one lavatory for every two toilets. Liquid soap shall be provided in public restrooms and bathrooms used by more than one patient. A sanitary individualized method of drying hands shall be available in each bathroom/restroom. Every patient room lavatory, as well as all other

lavatories used for handwashing, shall be equipped with valves which can be operated without the use of hands, *e.g.*, wrist-blades.

D. There shall be one bathtub or shower for each four licensed beds or fraction thereof.

E. All bathtubs, toilets, and showers used by patients shall have approved grab bars securely fastened in a usable fashion.

F. Privacy shall be provided at toilets, urinals, bathtubs, and showers.

G. Toilet facilities shall be conveniently located for kitchen employees. The doors of all toilet facilities located in the kitchen shall be self-closing.

H. Hospice facilities for handicapped persons shall be provided as per the SBC whether or not any of the patients are classified as handicapped.

I. All bathroom floors shall be entirely covered with an approved nonabsorbent covering. Walls shall be nonabsorbent, washable surfaces to the highest level of splash.

J. There shall be a mirror above each bathroom lavatory for patients' grooming.

K. An adequate supply of toilet tissue shall be maintained for each toilet.

L. Easily cleanable receptacles shall be provided for waste materials. Such receptacles in toilet rooms for women shall be covered.

2907. Work Stations

A. Work stations shall be provided for use by nursing and/or other direct care staff. Work stations shall be designed and constructed (or set up) in a manner conducive to the type of care provided by the facility or that specific area of the facility and the types of patients served.

B. At or near each work station, there shall be a telephone, an area for maintaining patient records and making entries, and toilet and handwashing facilities.

C. At or near each work station, provisions shall be made for:

1. Locked storage of medications, which may be accomplished by the use of a separately locked medication cart, container, cabinet, or room, provided:

a. The method or methods used are of sufficient size to allow for neat, clean, and orderly storage of medications;

b. Separations are provided for the storage of each patient's medications;

c. Separations are provided for oral and topical medications.

2. Work space/area for the preparation of medications, which may be a counter, table top, or a separate room, to include being a part of a separate medication room.

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D. A work station may not serve more than 40 beds.

E. A patient room shall not be located more than 150 feet from the work station that serves that room.

F. At or near each work station, there shall be utility areas or rooms for separate storage of clean and soiled supplies and equipment. Each utility area shall contain a handwashing sink, work counter, waste receptacle, and space for the storage of supplies.

2908. Signal System (II)

A signal system shall be provided in the facility to call for a staff member. It shall consist of:

A. A call button for each bed, bath, and toilet room which must be reachable.

B. A primary call system, which may be either a light, beeper system, or other system by which the staff member responds to a patient's call.

C. A secondary electronic back-up call system to be used in case of primary call system failure which shall respond to a patient's call by location.

2909. Doors (II)

A. All patient rooms and bath/restrooms shall have opaque doors for the purpose of privacy.

B. All glass doors, including sliding or patio type doors shall have a contrasting or other indicator that causes the glass to be observable, *e.g.*, a decal located at eye level.

C. Doorways from exit-access passageways to the outside of the hospice facility shall be at least 80 inches in height.

D. Door widths on exit doors shall be at least 44 inches.

E. Bath/restroom door widths shall be at least 36 inches wide.

F. Doors to patient rooms shall be at least 44 inches wide.

G. Doors that have locks shall be unlockable and openable with one action.

H. If patient room doors are lockable, there shall be provisions for emergency entry. There shall not be locks that cannot be unlocked and operated from inside the room (see Section 2501.C).

I. All patient room doors shall be solid-core. Except for facilities with five beds or less, each patient room is considered a tenant space and shall be enclosed by one-hour fire-resistive construction with a 20-minute fire-rated door, opening onto an exit access corridor. (I)

J. Soiled linen storage rooms over 100 square feet shall have a "C" labeled 3/4-hour door unless linen storage is in a separate building.

K. Exit doors required from each floor shall swing in the direction of exit travel. Doors, except those to spaces such as small closets, which are not subject to occupancy, shall not swing into corridors in a manner that obstructs corridor traffic flow or reduces the corridor width to less than one-half the required width during the opening process.

EXCEPTION: Not applicable to hospice facilities with five or less beds that are not built to institutional standards.

2910. Elevators (II)

A. Buildings having patients' facilities such as bedrooms, dining rooms, recreation areas, etc. located on other than the main floor shall have electric or electro-hydraulic elevators.

B. At least one hospital-type elevator shall be installed where patient beds are located on any floor other than the main entrance floor.

C. At least one elevator shall access all patient floors.

D. Cabs of at least one of the elevators shall have inside dimensions that will accommodate a patient bed and attendants and shall be at least 5 feet wide by 7 feet 6 inches deep. The cab door shall have a clear opening of not less than 3 feet 8 inches.

E. Elevators, if utilized, shall be installed and maintained in accordance with the provisions of the SBC, ANSI17.1 Safety Code for Elevators and Escalators, and NFPA 101, if applicable.

F. Elevators shall be inspected and tested upon installation, prior to first use, and annually thereafter by a certified elevator inspector.

2911. Corridors (II)

A. Minimum corridor width requirements shall be 96 inches.

B. Corridors and passageways in all hospice facilities shall be in accordance with the SBC.

2912. Ramps (II)

A. At least one exterior ramp, accessible by all patients, staff members/volunteers, and visitors shall be installed from the first floor to grade.

B. The ramp shall serve all portions of the hospice facility where patients are located.

C. The surface of a ramp shall be of nonskid materials.

D. Ramps shall be constructed in a manner in compliance with ANSI 117.1, *i.e.*, for every inch of height, the ramp shall be at least one foot long.

E. Ramps in hospice facilities with 11 or more licensed beds shall be of noncombustible construction. (I)

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F. Ramps shall discharge onto a surface that is firm and negotiable by persons who are physically challenged in all weather conditions and to a location accessible for loading into a vehicle.

2913. Landings (II)

Exit doorways shall not open immediately upon a flight of stairs. A landing shall be provided that is at least the width of the door and is the same elevation as the finished floor at the exit. (II)

2914. Handrails/Guardrails (II)

A. Handrails shall be provided on at least one side of each corridor/hallway and on all stairways, ramps, and porches with two or more steps. Ends of all installed handrails shall return to the wall.

B. All porches, walkways, and recreational areas (such as decks, etc.) that are elevated 30 inches or more above grade shall have guardrails 42 inches high. Open guardrails shall have intermediate rails through which a six-inch diameter sphere cannot pass.

2915. Screens (II)

Windows, doors and openings intended for ventilation shall be provided with insect screens.

2916. Windows/Mirrors

A. The window dimensions and maximum height from floor to sill shall be in accordance with the SBC and the Life Safety Code, as applicable.

B. Where clear glass is used in windows, with any portion of the glass being less than 18 inches from the floor, the glass shall be of "safety" grade, or there shall be a guard or barrier over that portion of the window. This guard or barrier shall be of sufficient strength and design so that it will prevent an individual from injuring him/herself by accidentally stepping into or kicking the glass. (II)

C. Windows shall be operable at all times.

D. Where patient safety awareness is impaired, safety (nonbreakable) mirrors shall be used.

2917. Janitor's Closet

There shall be at least one lockable janitor's closet per 40 licensed beds. Each closet shall be equipped with a mop sink or receptor and space for the storage of supplies and equipment. The floor area of the closet shall be at least 20 square feet.

2918. Storage Areas

A. Adequate general storage areas shall be provided for patient and staff/volunteer belongings, equipment, and supplies as well as clean linen, soiled linen, wheel chairs, and general supplies and equipment.

B. Areas used for storage of combustible materials and storage areas exceeding 100 square feet in area shall be provided with an NFPA-approved automatic sprinkler system. (I)

C. In storage areas provided with a sprinkler system, a minimum vertical distance of 18 inches shall be maintained between the top of stored items and the sprinkler heads. The tops of storage cabinets and shelves attached to or built into the perimeter walls may be closer than 18 inches below the sprinkler heads. In nonsprinklered storage areas, there shall be at least 24 inches of space from the ceiling. (I)

D. All ceilings, floor assemblies, and walls enclosing storage areas of 100 square feet or greater shall be composed of not less than one-hour fire-resistive construction with 3/4-hour labeled fire-rated door(s) and closer(s). (I)

E. Storage buildings on the premises shall meet the SBC requirement regarding distance from the licensed building. Storage in buildings other than on the hospice facility premises shall be secure and accessible. An appropriate controlled environment shall be provided if necessary for storage of items requiring such an environment.

F. In mechanical rooms used for storage, the stored items shall be located away from mechanical equipment and shall not be a type of storage that might create a fire or other hazard. (I)

G. Supplies/equipment shall not be stored directly on the floor. Supplies/equipment susceptible to water damage/contamination shall not be stored under sinks or in other areas with a propensity for water leakage. (II)

H. In hospice facilities, there shall be a soiled linen storage room which shall be designed, enclosed, and used solely for that purpose, and provided with mechanical exhaust directly to the outside.

I. A soiled linen storage room shall be provided and if over 100 square feet in size shall be of one hour fire-resistive construction unless storage is in a separate building.

2919. Telephone Service

A. At least one telephone shall be available on each floor of the hospice facility for use by patients and/or visitors for their private, discretionary use; pay phones for this purpose are acceptable. Telephones capable of only local calls are acceptable for this purpose, provided other arrangements exist to provide patient/visitor discretionary access to a telephone capable of long-distance service.

B. At least one telephone shall be provided on each floor for staff members/volunteers to conduct routine business of the hospice facility and to summon assistance in the event of an emergency; pay station phones are not acceptable for this purpose.

2920. Location

A. Transportation. The hospice facility shall be served by roads that are passable at all times and are adequate for the volume of expected traffic.

B. Parking. The hospice facility shall have a parking area to reasonably satisfy the needs of patients, staff members/volunteers, and visitors.

C. Access to firefighting equipment. Hospice facilities shall maintain adequate access to and around the building(s) for firefighting equipment. (I)

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2921. Outdoor Area

A. Outdoor areas where unsafe, unprotected physical hazards exist shall be enclosed by a fence or a natural barrier of a size, shape, and density that effectively impedes travel to the hazardous area. Such areas include, but are not limited to steep grades, cliffs, open pits, high voltage electrical equipment, high speed or heavily traveled roads, and/or roads exceeding two lanes, excluding turn lanes, ponds and swimming pools. (I)

B. Where required, fenced areas that are part of a fire exit from the building shall have a gate in the fence that unlocks in case of emergency per Special Locking Arrangements in the SBC. (I)

C. Mechanical or equipment rooms that open to the outside of the hospice facility shall be kept protected from unauthorized individuals. (II)

SECTION 3000 - SEVERABILITY

3001. General

In the event that any portion of these regulations is construed by a court of competent jurisdiction to be invalid, or otherwise unenforceable, such determination shall in no manner affect the remaining portions of these regulations, and they shall remain in effect, as if such invalid portions were not originally a part of these regulations.

SECTION 3100 - GENERAL

3101. General

Conditions which have not been addressed in the standards shall be managed in accordance with the best practices as interpreted by the Department.

Fiscal Impact Statement:

There will be no cost to the State and its political subdivisions. Other than an increase in the licensing fees, there will be minimal additional cost to the regulated community. See Statement of Need and Reasonableness below.

Statement of Need and Reasonableness:

This statement was determined by staff analysis pursuant to S.C. code Section 1-23-115(C)(1)-(3) and (9)-(11).

DESCRIPTION OF REGULATION: Regulation 61-78, *Standards For Licensing Hospices*

Purpose of Regulation: Promulgation of this regulation satisfies a legislative mandate requiring the Department to develop regulations to set standards for the licensing of hospice facilities. See Preamble and Discussion of Regulation Revision. See Determination of Need and Reasonableness below.

Legal Authority: The legal authority for this regulation is Section 44-71-10, *et seq.*, of the S.C. Code.

Plan for Implementation: The amendment will take effect upon publication in the *State Register* following approval by the S.C. General Assembly. The amendment will be implemented by providing the regulated community with copies of the regulation.

DETERMINATION OF NEED AND REASONABLENESS OF THE REGULATION AMENDMENT BASED ON ALL FACTORS HEREIN AND EXPECTED BENEFITS:

The amendment is needed and reasonable because it will address the legislative mandate to provide standards for hospice facilities and to regulate these facilities.

The amendment is needed and reasonable in order to update and improve the overall quality of the regulation.

The amendment is needed and reasonable because it will clarify/add to the current regulation in a manner that will improve methods to provide quality care/treatment/services to patients.

The amendment is needed and reasonable because it will update the current regulation by incorporating certain exceptions/guidances that the Department has implemented since the last revision.

DETERMINATION OF COSTS AND BENEFITS: There will be no additional cost to the state and its political subdivisions. There will be increased licensing fees thereby resulting in a minimal cost to the regulated community.

UNCERTAINTIES OF ESTIMATES: None

EFFECT ON ENVIRONMENT AND PUBLIC HEALTH: There will be no effect on the environment. The revision will promote public health by providing standards appropriate for facilities that provide 24-hour care for those individuals who are terminally ill.

DETRIMENTAL EFFECT ON THE ENVIRONMENT IF THE REGULATION AMENDMENT IS NOT IMPLEMENTED: There will be an adverse effect on the public health if the regulation is not implemented, since facilities dedicated to providing care to the terminally ill will continue to be regulated by licensing standards (R.61-17) not appropriate for the these type of facilities given their objectives and purpose.

Resubmitted: January 22, 2002

Document No. 2623

DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL

CHAPTER 61

Statutory Authority: Section 44-32-10 et seq., South Carolina Code of Laws, 1976, as amended (2000)

R.61-109. Standards for Permitting Body Piercing Facilities

Synopsis:

The South Carolina General Assembly enacted the Body Piercing Act (Act 249), codified at South Carolina Code Section 44-32-10 *et seq.*, that became effective October 1, 2000. Pursuant to the Act, this new regulation will establish standards for the permitting and inspection of body piercing establishments and body piercing technicians.

Discussion of New Regulation:

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Section 100 of the proposed new regulation addresses definitions, a reference listing of Departmental and non-Departmental publications, facility permitting requirements, and exceptions.

Section 200 addresses methods used in enforcing the regulations, *i.e.*, investigations, inspections, probation, and consultations.

Section 300 addresses reference to the types of enforcement actions which may be taken by the Department, and the classifications of violations and the appeal process.

Section 400 directs that policies and procedures be developed, implemented, and revised appropriately with an established time period for review.

Section 500 addresses staff training and qualifications to comply with applicable federal, state, and local laws in accordance with professional organizational standards, and personnel requirements.

Section 600 addresses reporting requirements to the Department for accidents or incidents, fire/disasters, administrator change, and facility closure.

Section 700 addresses client record content and maintenance.

Section 800 addresses client procedures and services provided, including procedures for minors.

Section 900 addresses informed consent and client rights to include informed consent for treatment, grievance procedures, confidentiality of client records, freedom from abuse, and privacy during piercing procedures.

Section 1000 directs the facility be maintained to perform the functions for which it is designed, and be free from fire hazards.

Section 1100 addresses infection control and housekeeping, including hepatitis B screening.

Section 1200 addresses emergency procedures.

Section 1300 addresses fire prevention requirements, including arrangements for fire department response, inspections, and fire response training.

Section 1400 addresses facility accommodations to include that a facility shall have a room for the purpose of disinfecting and sterilization of equipment that shall be physically separate from the room used for body piercing procedures to avoid cross-contamination of equipment.

Section 1500 requires mobile units to meet the current and existing standards of the state, federal and local department of transportation for permitting and safe operation of the vehicle.

Section 1600 adds a severability clause.

Section 1700 addresses conditions that have not been addressed in these regulations.

Instructions:

Add R.61-109 to Chapter 61 regulations.

Text:

R.61-109 - Standards for Licensing Body Piercing Facilities

REGULATION 61-109. STANDARDS FOR LICENSING BODY PIERCING FACILITIES

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SECTION 100 - DEFINITIONS AND PERMIT REQUIREMENTS

101. Definitions.

For the purpose of this regulation, the following definitions shall apply:

A. Administrator. The individual designated by the facility permit holder to have the authority and responsibility to manage the facility.

B. Adult. A person 18 years of age or older, or a person under the age of 18 who has been emancipated in accordance with state law.

C. Aftercare. Services provided to clients, when necessary, after their release from a facility.

D. Authorized Healthcare Provider. An individual authorized by law and currently licensed in South Carolina (S.C.) to provide specific medical treatments, care, or services to technicians and/or clients. Examples of individuals who may be authorized by law to provide the aforementioned treatment/care/services may include, but are not limited to, advanced practice registered nurses, physician assistants.

E. Body Piercing. The creation of an opening in the body of a human being so as to create a permanent hole for the purpose of inserting jewelry or other decoration. This includes, but is not limited to, piercing of an ear, lip, tongue, nose, or eyebrow, but does not include piercing an ear lobe with a disposable, single-use stud or solid needle that is applied using a mechanical device to force the needle or stud through the ear lobe.

F. Client. A person who has a body piercing procedure performed on his or her body.

G. Consultation. A visit to a permitted facility by individuals authorized by the Department to provide information to facilities to enable/encourage facilities to better comply with the regulations.

H. Contaminated or Contamination. The presence of blood, infectious materials, or other types of impure materials that have corrupted a surface or item through contact.

I. Department. The Department of Health and Environmental Control.

J. Disinfection. The killing of microorganisms, but not necessarily their spores, on inanimate objects.

K. Ear Lobe. The lower portion of the ear which contains no cartilage.

L. Existing Facility. A facility which was in operation and/or one which began the construction or renovation of a building, for the purpose of operating the facility, prior to the promulgation of this regulation. The permitting standards governing new facilities apply if and when an existing facility is not continuously operated and permitted under this regulation.

M. Facility. Any room, space, location, area, structure, mobile unit or business, or any part of any of these places, identifiable by a mailing address, where body piercing is practiced or where the business of body piercing is performed.

N. Inspection. A visit by authorized individuals to a facility or to a proposed facility for the purpose of determining compliance with this regulation.

O. Investigation. A visit by authorized individuals to a permitted or unpermitted entity for the purpose of determining the validity of allegations received by the Department relating to this regulation.

P. Minor. Any person whose age does not meet the criteria indicated in Section 101.B above.

Q. New Facility. All buildings or portions of buildings, new and existing building(s), that are:

1. Being permitted for the first time;
2. Providing a different modality or service when the permit holder has changed the type of permit;
3. Being permitted after the previous permit holder's permit has been revoked, suspended, or after the previous permit holder has voluntarily surrendered his or her permit.

R. Picture Identification.

1. A valid S.C. driver's license; or
2. An official photographic identification card issued by the S.C. Department of Revenue, a federal or state law enforcement agency, or an agency of the U.S. Departments of Defense or State, e.g., military ID, passport.

S. Probation. An action taken by the Department in which a facility is notified that it must comply with the provisions of this regulation within a specified period of time or enforcement actions may be imposed.

T. Release. The point at which the client's active involvement with a facility is terminated and the facility no longer maintains active responsibility for the client.

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U. Repeat Violation. The recurrence of a violation cited under the same section of the regulation within a 36-month period. The time-period determinant of repeat violation status is not interrupted by ownership changes.

V. Sanitize or Sanitization. A procedure that reduces the level of microbial contamination so that the item or surface is considered safe.

W. Sterilization. The destruction of all forms of micro-biotic life, including spores.

X. Suspend Permit. An action by the Department requiring a facility to cease operations for a period of time until such time as the Department rescinds that restriction.

Y. Technician. A person who practices body piercing in S.C. and is in compliance with this regulation.

102. References

The following publications are referenced in these regulations:

A. Departmental: R.61-105, Infectious Waste Management Regulations.

B. Non-Departmental:

1. Standard Building Code;
2. American Association of Blood Banks;
3. Bloodborne Pathogens Standards, Occupational Safety and Health Act of 1970 (OSHA);
4. Civil Rights Act of 1964;
5. American Society for Testing of Materials Specifications;
6. Applicable guidelines from the Centers for Disease Control and Prevention

103. Permit Requirements (II)

A. Permit. (I)

1. No person, private or public organization, political subdivision, or governmental agency shall establish, operate, maintain, or represent his/her/itself (advertise or market) as a body piercing facility in S.C. without first obtaining a permit from the Department. Facilities that perform body piercing prior to the effective date of permitting are in violation of Section 44-32-10, *et seq.*, of the S.C. Code of Laws, 1976, as amended.

2. When it has been determined by the Department that body piercing is being performed at a location, and the owner has not been issued a permit from the Department to perform such procedures, the owner shall cease operation immediately.

3. Current or previous violations of the S.C. Code and/or Department regulations may jeopardize the issuance of a permit for the facility or the permitting of any other facility or addition to an existing facility which is owned or operated by the permit holder. The facility shall provide only the procedures or services it is permitted to provide pursuant to the definition in Section 101 of this regulation.

B. Compliance. An initial permit shall not be issued to a proposed facility that has not been previously and continuously permitted under Department regulations until the permit holder has demonstrated to the Department

that the proposed facility is in substantial compliance with this regulation. In the event a permit holder who already has a facility or activity licensed or permitted by the Department makes application for another facility, the currently licensed or permitted facility or activity shall be in substantial compliance with the applicable standards prior to the Department issuing a permit to the proposed facility. A copy of this regulation shall be maintained at the facility. Facilities shall comply with applicable local, state, and federal laws, codes, and regulations, to include applicable federal Office of Safety and Health Administration (OSHA) requirements or guidelines.

C. Issuance and Terms of Permit.

1. A permit is issued by the Department and shall be posted in a conspicuous place in a public area within the facility.

2. The issuance of a permit does not guarantee safety conditions, or the adequacy of sanitation or sterilization procedures provided.

3. A permit is not assignable nor transferable and is subject to revocation at any time by the Department for the permit holder's failure to comply with the laws and regulations of this State.

4. A permit shall be effective for a specified facility, at a specific location(s), for a specified period following the date of issue as determined by the Department. A permit shall remain in effect until the facility is otherwise notified by the Department.

5. Mobile units shall have a permanent mailing address; permits will indicate that address, and that the facility is mobile. Schedules of mobile units' locations shall be submitted quarterly to the Department's Division of Health Licensing (DHL).

D. Existing facilities shall be required to comply with all standards within this regulation.

EXCEPTION: The square footage required in the procedure room (see Section 1401.A) shall not require modification.

E. Application.

1. Prior to applying to the Department for a permit, a proposed facility shall:

a. Obtain a copy of this regulation from the Department, sign an acknowledgment upon receipt, and return the receipt to the Department;

b. Ensure that all technicians comply with all applicable federal Office of Safety and Health Administration (OSHA) requirements or guidelines, and obtain certificates attesting to the successful completion of courses in:

- (1) Bloodborne pathogens;
- (2) Body piercing infection control as approved by the Department;
- (3) American Red Cross First Aid;
- (4) Adult cardiopulmonary resuscitation (CPR).

2. When applying for a permit issued by the Department, the facility shall:

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a. Submit to the Department a completed application on a form prescribed and furnished by the Department prior to initial permitting and periodically thereafter at intervals determined by the Department. Applicants for a permit shall file application with the Department, that includes an oath assuring that the contents of the application are accurate and true, and in compliance with this regulation.

b. Provide a copy of the business license, as applicable, to the Department;

c. Submit a permitting fee.

F. Permitting Fees. Fees shall be made payable by check or money order to the Department and shall be used exclusively in support of activities pursuant to this regulation.

1. The initial and annual permit fee shall be \$300.00; an additional amount may be charged if necessary to cover the cost of inspection.

2. If a permit renewal is denied, a portion of the fee shall be refunded based upon the remaining months of the permitting year, or \$75.00, whichever is the lesser.

G. Permit Renewal. For a permit to be renewed, applicants shall file an application with the Department, pay a permit fee, and shall not be under consideration for, or undergoing enforcement actions by the Department. If the permit renewal is delayed due to enforcement actions, the renewal permit will be issued only when the matter has been resolved satisfactorily by the Department, or when the adjudicatory process is completed, whichever is applicable.

H. Change of Permit.

1. A facility shall request issuance of an amended permit by application to the Department prior to any of the following circumstances:

a. Change of ownership;

b. Change of facility location from one geographic site to another (not applicable to mobile facilities).

2. Changes in a facility name or address initiated by the post office (no location change) shall be accomplished by application or letter from the permit holder.

I. Upon completion of all the requirements of permitting, the facility shall receive a permit issued by the Department. The permit shall be posted in a conspicuous place in the facility.

J. Each facility shall conspicuously display a clearly legible notice to clients informing them of any disqualification that body piercing may confer upon a prospective blood donor according to the current and subsequent amendments to standards of the American Association of Blood Banks. This notice also shall appear in any informed consent or release form which a technician uses, and shall be signed by the prospective client, and contain, at a minimum, aftercare suggestions for the specific piercing site.

K. Technicians shall perform body piercing only in permitted facilities.

104. Exceptions to the Standards

The Department has the authority to make exceptions to these standards when it is determined that the health, safety, and well-being of the clients will not be compromised and provided the standard is not specifically required by statute.

SECTION 200 - ENFORCING REGULATIONS**201. General**

The Department shall utilize inspections, investigations, consultations, and other pertinent documentation regarding a proposed or permitted facility in order to enforce this regulation.

202. Inspections/Investigations

A. An inspection shall be conducted prior to initial permitting of a facility and subsequent inspections conducted as deemed appropriate by the Department.

B. All facilities are subject to inspection or investigation at any time without prior notice by individuals authorized by the Department.

C. Individuals authorized by the Department shall be granted access to all properties and areas, objects, and records, and have the authority to require the facility or technician to make photocopies of those documents required in the course of inspections or investigations. Photocopies shall be used for purposes of enforcement of regulations and confidentiality shall be maintained except to verify individuals in enforcement action proceedings. (II)

D. When there is noncompliance with the standards of this regulation, the facility shall submit an acceptable written plan of correction to the Department that shall be signed by the administrator and returned by the date specified on the report of inspection or investigation. The written plan of correction shall describe: (II)

1. The actions taken to correct each cited deficiency;
2. The actions taken to prevent recurrences (actual and similar);
3. The actual or expected completion dates of those actions.

E. Reports of inspections or investigations conducted by the Department, including the facility response, shall be made available upon request with the redaction of the names of those individuals in the report as provided by Sections 44-7-310 and 315 of the S.C. Code of Laws, 1976, as amended.

F. The Department may conduct the following inspections or investigations of the locations where body piercing is being or will be performed:

1. An initial inspection as a condition of permitting;
2. An investigation following any complaint filed with the Department;

G. Inspections may be conducted by the Department at any time without previous notification to the facility.

203. Probation

A. The Department may place a facility on probation when it has been determined by the Department that the facility has failed to maintain a business address or telephone number at which the facility may be reached during business hours, or violated any other standard of this regulation, as deemed appropriate.

B. The facility shall post the probationary letter from the Department in a conspicuous place in the facility until such time that the Department has determined that sufficient corrective action has been taken.

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204. Consultations

Consultations shall be provided by the Department as requested by the facility or as deemed appropriate by the Department.

SECTION 300 - ENFORCEMENT ACTIONS

301. General (II)

A. When the Department determines that a facility is in violation of any statutory provision, rule, or regulation relating to the operation or maintenance of such facility, the Department, upon proper notice to the permit holder, may deny, refuse to renew, suspend, or revoke permits.

B. Facilities shall accept delivery of U.S. Postal Service certified or registered mail from the Department.

302. Violation Classifications

Violations of standards in regulation are classified as follows:

A. Class I violations are those that the Department determines to present an imminent danger to the health, safety, or well-being of persons in the facility or a substantial probability that death or serious physical harm could result therefrom. A physical condition or one or more practices, means, methods or operations in use in a facility may constitute such a violation. The condition or practice constituting a Class I violation shall be abated or eliminated immediately unless a fixed period of time, as stipulated by the Department, is required for correction. Each day such violation exists after expiration of the time established by the Department may be considered a subsequent violation.

B. Class II violations are those, other than Class I violations, that the Department determines to have a negative impact on the health, safety or well-being of persons in the facility. The citation of a Class II violation shall specify the time within which the violation is required to be corrected. Each day such violation exists after expiration of this time may be considered a subsequent violation.

C. Class III violations are those that are not classified as Class I or II in these regulations or those that are against the best practices as interpreted by the Department. The citation of a Class III violation shall specify the time within which the violation is required to be corrected. Each day such violation exists after expiration of this time may be considered a subsequent violation.

D. The notations, "(I)" or "(II)," placed within sections of this regulation, indicate those standards are considered Class I or II violations if they are not met, respectively. Standards not so annotated are considered Class III violations.

E. In arriving at a decision to take enforcement actions, the Department will consider the following factors: the number and classification of violations; specific conditions and their impact or potential impact on health, safety or well-being of the clients; efforts by the facility to correct cited violations; behavior of the permit holder that would reflect negatively on the permit holder's character, such as illegal or illicit activities; overall conditions of the facility; history of compliance; any other pertinent conditions that may be applicable to current statutes and regulations.

F. Any decision by the Department to grant, deny, revoke, suspend, or refuse to renew a permit may be appealed by a party with standing in a manner pursuant to the Administrative Procedures Act, Section 1-23-310, *et seq.*, of the S.C. Code Laws, 1976, as amended.

SECTION 400 - POLICIES AND PROCEDURES

401. General (II)

A. Policies and procedures addressing each section of this regulation regarding client procedures or services, rights, infection control, and the operation of the facility shall be developed and implemented by the facility, and revised as appropriate in order to accurately reflect actual facility operation. Facilities shall establish a time-period for review of all policies and procedures. These policies and procedures shall be accessible at all times. A hard copy of the client care policies and procedures shall be available or be readily accessible electronically at each facility.

B. The policies and procedures shall describe the means by which the facility shall assure that the standards described in this regulation, which the permit holder has agreed to meet as confirmed by his or her application, are met.

SECTION 500 - STAFF**501. General (II)**

A. Appropriate technicians in numbers and training shall be available at the facility to provide appropriate, safe body piercing procedures to clients and meet the demands of effective emergency on-site action that might arise. Training requirements and qualifications for the tasks each performs shall be in compliance with all local, state, and federal laws, and current professional organizational standards.

B. Technicians shall not be under the influence of any substance that would impair his or her ability to perform body piercing.

C. Administrator.

1. The permit holder shall ensure that there is an administrator responsible for the day-to-day operation of the facility to ensure compliance with these regulations.

2. An individual shall be designated, in writing, to act in the absence of the administrator.

3. The administrator and the facility technician may be the same individual.

D. Technicians shall be provided the necessary training to perform the duties for which they are responsible in an effective manner.

E. All new technicians shall be oriented to acquaint them with the organization and environment of the facility, their specific duties and responsibilities, and clients' needs.

F. There shall be accurate information maintained regarding all technicians of the facility, to include at least current address, phone number, health, work, and training background, as well as current health and education information. All technicians shall be assigned certain duties and responsibilities that shall be in writing and in accordance with the individual's capability.

502. Inservice Training (II)

A. In all facilities, the following training, utilizing resources as approved by the Department, shall be provided to all technicians prior to client contact and at least annually:

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1. Courses in adult CPR, and in bloodborne pathogens and body piercing infection control, as approved by the Department;

2. American Red Cross First Aid certification (required for each technician every three years).

B. Prior to independently performing body piercing procedures, a new technician shall spend in training a minimum of 400 hours under the direct supervision of an experienced technician who shall sign and maintain a statement attesting to the completion of such training.

503. Health Status (I)

No person infected with or a carrier of a serious communicable disease, *e.g.*, tuberculosis, which may be transmitted to clients in the facility, or having boils, open or infected skin lesions shall have client contact.

SECTION 600 - REPORTING

601. Incidents/Accidents (II)

A. A record of each accident and incident involving clients or technicians occurring in the facility shall be retained. Incidents or accidents resulting in serious medical conditions, *e.g.*, lacerations, hematomas, actual or suspected abuse of clients by technicians, etc., in which the client is hospitalized, shall be reported via telephone to the next-of-kin or responsible person at the earliest practicable hour, but not to exceed 24 hours of the occurrence, and in writing to DHL within 10 days of the occurrence.

B. Reports shall contain at a minimum: facility name, technician name, client age and sex, date of incident or accident, location, witness names, identified cause of incident or accident, extent and type of injury and how treated, *e.g.*, hospitalization, and the date of the report.

602. Fire/Disasters (II)

A. The facility permit holder shall notify DHL immediately via telephone or fax regarding any fire in the facility, and followed by a complete written report, to include fire department reports, if any, to be submitted within a time-period determined by the facility, but not to exceed 72 hours from the occurrence of the fire.

B. Any natural disaster or fire that jeopardizes the safety of any persons in the facility shall be reported to DHL via telephone or fax immediately, with a complete written report which includes the fire report from the local fire department, if appropriate, submitted within a time-period as determined by the facility, but not to exceed 72 hours.

603. Administrator Change

The facility permit holder shall notify DHL in writing within 10 days of any change in administrator. The notice shall include at a minimum the name of the newly-appointed individual and effective date of the appointment.

604. Facility Closure

Prior to the permanent or temporary closure of a facility, the facility permit holder shall notify DHL in writing of the intent to close and the effective closure date. On the date of permanent closure, the permit shall be returned to DHL. For temporary facility closures, the facility permit holder shall notify DHL in writing in advance of re-opening.

SECTION 700 - CLIENT RECORDS

701. Content (II)

A. The facility shall initiate and maintain a client record for every individual who has undergone body piercing. All entries shall be written legibly in ink or typed, signed and dated, and shall identify the author.

B. Specific entries shall include at a minimum:

1. Identification of the client;
2. Consent for piercing and explanation of client rights, as evidenced by the technician and client signatures;
3. Body piercing procedure performed;
4. Procedures followed if an unexpected event occurs, and emergency procedures taken if there is an adverse reaction.

C. A means of verification of client's identity, e.g, copy of the identification picture, shall be included in the record.

D. There shall be a release/aftercare note, completed at the time of release, which shall include at minimum:

1. Date and time of release, including condition at release;
2. The recommendations for aftercare, with a copy provided to the client.

702. Record Maintenance

A. The facility shall provide accommodations, space, supplies, and equipment adequate for the protection and storage of client records.

B. The facility shall determine the medium in which information is stored.

SECTION 800 - CLIENT PROCEDURES/SERVICES PROVIDED

801. General (I)

A. The facility shall perform body piercing only for those persons for which the facility can provide the appropriate accommodations and services.

B. Body piercing shall be rendered effectively and safely.

C. Body piercing shall not be performed upon a person impaired by drugs or alcohol to the extent that he or she is incapable of consenting to body piercing and incapable of understanding body piercing procedures and aftercare suggestions.

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D. Body piercing shall not be performed on skin surfaces having sunburn, rash, keloids, pimples, boils, infections, open lesions, or manifest any evidence of unhealthy conditions.

E. Prior to performing a procedure on a client, the technician shall obtain information from the client regarding any existing condition(s), *e.g.*, allergic to latex or nickel, that could affect the healing process. If a client indicates the presence of such a condition, the facility shall obtain documentation from a physician or other authorized healthcare provider that the procedure is not contraindicated, prior to the body piercing procedure.

F. Clients shall be given the opportunity to participate in aftercare programs if offered by the facility. (II)

802. Procedures on Minors (II)

A. A body piercing technician shall not perform or offer to perform body piercing upon a person under the age of 18 years, unless the body piercing is performed in the presence of, or as directed by a notarized statement, in writing, by the person's parent or court-appointed guardian, or if the client is emancipated in accordance with state law.

B. The facility shall verify by means of a picture identification that a recipient is at least 18 years of age.

C. Body piercing shall not be performed upon a person under the age of 16 unless written approval is obtained from a physician in addition to complying with Section 802.A, above.

SECTION 900 - CLIENT RIGHTS

901. Informed Consent (II)

A. The facility shall inform the client, parent, or court-appointed guardian if the client is a minor, of the potential for any risks, and/or adverse effects or consequences regarding the body piercing procedure(s) to be performed. In all instances of body piercing, the client must voluntarily choose, in writing, to receive the procedure.

B. The facility shall inform clients of the metal content of jewelry utilized in each procedure and its safety for human implant. Such content shall comply with the American Society for Testing Materials Specifications.

902. Grievance/Complaint (II)

Clients shall be informed of the grievance or complaint procedure, including the address and phone number of DHL.

903. Procedures and Charges

Body piercing procedures performed by the facility and the charges for such procedures shall be delineated in writing, and the client or parent/guardian, if client is a minor, shall be made aware of such charges and procedures as verified by his or her signature, prior to the procedure.

SECTION 1000 - MAINTENANCE

1001. General

A. The facility, including its component parts and equipment, shall be properly maintained to perform the functions for which it is designed. (II)

B. The physical plant shall be maintained free of fire hazards or impediments to fire prevention. (I)

SECTION 1100 - INFECTION CONTROL AND ENVIRONMENT**1101. Staff Practices (I)**

Staff practices shall promote conditions that prevent the spread of infectious, contagious, or communicable diseases and provide for the proper disposal of toxic and hazardous substances. These preventive measures or practices shall be in compliance, as applicable, with the Occupational Safety and Health Act of 1970 (OSHA) Bloodborne Pathogens Standards, the Department's R.61-105, applicable guidelines of the Centers for Disease Control and Prevention, other applicable federal, state, and local laws and regulations, and other professionally recognized organizations.

1102. Hepatitis B Vaccination (I)

A. All technicians shall have the hepatitis B vaccination series, or offered the series and declined, in writing. Those who decline shall be tested for hepatitis B surface antigen (HBsAg) on an annual basis.

B. Each technician who elects to have the series shall have completed, within 30 days of employment, the initial vaccination.

1103. Infection Control (I)

A. A technician shall utilize the following infection control measures:

1. Before and after each body piercing procedure, wash his or her hands thoroughly for a minimum of 15 seconds with water and a liquid germicidal solution approved by the Department, and dried with a □C-fold□ disposable paper towel from a wall-mounted dispenser;

2. When necessary to perform a procedure on certain individuals who must undergo shaving of hair, utilize either disinfected scissors or a single-use disposable razor;

3. Scrub the skin of the client in the area to be pierced in a sterile surgical manner with a liquid germicidal solution approved by the Department and used in accordance with the manufacturer's direction.

4. Utilize single-use sterile disposable gloves when setting up equipment and immediately replace upon notice of a tear, any contamination, or other defect;

5. Prior to any direct contact with the client, sterilely place all sterile instruments and body piercing items or jewelry on a sterile disposable towel or drape to be used as a single sterile field throughout the procedure;

6. Re-gloving with single-use sterile disposable surgical gloves shall occur prior to initiation of the procedure, which is to be performed using strict sterile surgical techniques. Any non-sterile contact or contamination of the instruments, jewelry, or field shall immediately result in cessation of the procedure and nonuse of all equipment until re-sterilized.

7. Dispose of used, single-use needles and other disposable sharp supplies in safety puncture-proof containers as approved by the Department; these used containers shall be disposed of in a manner prescribed by the Department.

B. The use of gauze, alum, styptic pencils, or medical supplies deemed necessary to control bleeding is prohibited unless a separate disposable single-use sterile item is used.

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C. Food, drink, and the use of tobacco products in the procedure and disinfection/sterilization rooms are prohibited.

D. Live animals shall not be permitted in the procedure and disinfection/sterilization rooms.

EXCEPTION: This standard does not apply to patrol dogs accompanying security or police officers, guide dogs, or other service animals accompanying handicapped individuals.

1104. Sterilization of Equipment (I)

A. All used surgical equipment intended for reuse shall be properly scrubbed clean of visible materials and soaked for a minimum of 20 minutes in a liquid germicidal solution approved by the Department, which shall be used in accordance with the manufacturer's direction. The equipment shall then be immediately placed in a mechanical ultrasonic cleanser for at least 25 minutes prior to being re-sterilized by autoclave. The ultrasonic cleanser shall be clearly labeled as biohazardous and shall be located as far apart as possible from the autoclave within the disinfection/sterilization room.

B. Facilities shall properly package and sterilize by autoclave those needles, instruments, other surgical equipment, and body piercing items or jewelry that are not single-use/disposable, include a sterile indicator, and label with the date of sterilization.

C. Single-use items shall not be used on more than one client for any reason unless properly sterilized. After use, all single-use needles, razors, and other sharps shall be immediately disposed of in approved sharps containers.

D. Each facility shall keep a written log for two years of autoclave use, to include, but not be limited to, date and time of use and sterilization spore test strip results conducted at least monthly. (II)

1105. Housekeeping (II)

The interior and exterior of the facility shall be neat, clean, and free of safety impediments, vermin, and offensive odors.

A. Interior housekeeping shall at a minimum include:

1. Cleaning each specific area of the facility;
2. Cleaning and disinfection, as needed, of equipment and supplies used and/or maintained in each area, appropriate to the area and purpose or use of the equipment or supplies;
3. Safe storage of harmful chemicals (as indicated on the product label), cleaning materials, and supplies, e.g., mops, brooms, in cabinets or well-lighted closets or rooms. Such storage shall not occur in areas where sterilization equipment/supplies are stored or where sterilization or body piercing procedures are performed.

B. All garbage and waste shall be collected, stored, and disposed of in a manner designed to prevent the transmission of disease.

1. Refuse shall be stored in containers which shall be emptied at sufficient frequencies and manner so as not to create a rodent, insect, or other vermin problem. The containers shall be sanitized prior to their return to work areas.

2. Dumpsters utilized by the facility shall be enclosed/covered.

C. Exterior housekeeping shall at a minimum include the general cleaning of all exterior areas, *e.g.*, porches and ramps, and removal of safety impediments such as water, snow, and ice.

1106. Infectious Waste (I)

Accumulated waste, including all contaminated sharps, dressings, pathological, and/or similar infectious waste, shall be disposed of in a manner compliant with the Department's R.61-105 and the OSHA Bloodborne Pathogens Standard.

SECTION 1200 - EMERGENCY PROCEDURES

1201. Emergency Call Numbers (I)

Emergency call data shall be posted in a conspicuous place and shall include, in addition to ☐911,☐ the telephone numbers of fire and police departments and ambulance service.

1202. Medical Emergencies (I)

Medical emergencies shall be managed in a manner as to insure the health, safety and well-being of clients.

SECTION 1300 - FIRE PREVENTION

1301. Arrangements for Fire Department Response (I)

Facilities located outside of a service area or range of a public fire department shall arrange, by written agreement, for the nearest fire department to respond in case of fire. A copy of the agreement shall be kept on file in the facility and a copy shall be forwarded to DHL. If the agreement is changed, a copy shall be forwarded to DHL.

1302. Inspections (I)

Each facility shall be inspected by the local fire inspector or marshal prior to permitting and once each year thereafter.

1303. Evacuation Plan (I)

A plan for the evacuation of clients, technicians, and visitors, in case of fire or other emergency, shall be posted in conspicuous public areas throughout the facility.

1304. Fire Response Training (I)

Each technician shall receive training within one week of hiring, and at a frequency determined by the facility, but at least annually thereafter, addressing at a minimum, the following:

- A. Fire plan, to include evacuation routes and procedures, and the training of staff members;
- B. Reporting a fire;
- C. Use of the fire alarm system, if applicable;
- D. Location and use of fire-fighting equipment;
- E. Methods of fire containment;

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F. Specific responsibilities and duties of each individual.

SECTION 1400 - FACILITY ACCOMMODATIONS

1401. General (II)

A. A facility shall include a room for the purpose of disinfecting and sterilization of equipment that shall be physically separate from the room used for body piercing procedures to avoid cross-contamination of equipment. These areas shall be separated from each other and from waiting customers by a door. The procedure room shall be sized to accommodate necessary equipment or supplies, personnel, and procedure table, but not less than 64 square feet of floor space, exclusive of fixed cabinets or shelves.

1. Wall and floor surfaces of the procedure and disinfection/sterilization rooms shall be nonporous and easily cleanable;

2. A separate, properly identified sink (with hot and cold running water) used for disinfection practices only shall be located in the disinfection/sterilization room.

B. Procedure tables shall be constructed of a nonporous, sanitizable material.

C. A standard first aid kit or equivalent first aid supplies shall be readily accessible in the facility, and shall contain as a minimum:

1. 4" X 4" gauze pads;

2. Benzalkonium swabs;

3. 2" X 2" gauze pads;

4. Gauze roller bandage.

D. Lighting in the procedure and disinfection/sterilization rooms shall be not less than 100 foot-candles.

E. There shall be an appropriate number of restrooms in the facility, to accommodate clients, technicians, and visitors; the restrooms shall be accessible during all operating hours of the facility. The restroom(s) shall be equipped with a toilet, toilet paper installed in a holder, a lavatory supplied with hot and cold running water, liquid or granulated soap, single-use disposable paper towels or electric air dryer, and a waste receptacle. Equipment and supplies used in the course of body piercing procedures or disinfection and sterilization procedures shall not be stored or utilized in the restroom.

F. Emergency electric services shall be provided for procedure room illumination in addition to other requirements of the Standard Building Code.

G. Each procedure room shall have a high efficiency particulate air (HEPA) filter.

SECTION 1500 - MOBILE UNITS

1501. General (II)

All mobile units shall meet the current and existing standards of the state, federal, and local departments of transportation for the permitting and safe operation of the vehicle. In addition, all interior aspects of the vehicle shall meet the same standards as described in this regulation for nonmobile facilities.

SECTION 1600 - SEVERABILITY

1601. General

In the event that any portion of these regulations is construed by a court of competent jurisdiction to be invalid, or otherwise unenforceable, such determination shall in no manner affect the remaining portions of these regulations, and they shall remain in effect, as if such invalid portions were not originally a part of these regulations.

SECTION 1700 - GENERAL**1701. General**

Conditions that have not been addressed in these regulations shall be managed in accordance with the best practices as interpreted by the Department.

Fiscal Impact Statement:

The Department estimates that the State and its political subdivisions will incur a fiscal impact of \$155,000 plus \$21,000 in non-recurring funds by the promulgation of these regulations. Cost of implementation will be met, in part, by permitting fees imposed by the proposed regulation. There will be costs to the regulated community. See Statement of Need and Reasonableness below.

Statement of Need and Reasonableness:

This statement was determined by staff analysis pursuant to S.C. code Section 1-23-115(C)(1)-(3) and (9)-(11).

DESCRIPTION OF REGULATION: R.61-109, Standards For Permitting Body Piercing Facilities

Purpose of New Regulation: Promulgation of this regulation satisfies a legislative mandate requiring the Department to develop regulations to set standards for the permitting and inspection of facilities that provide body piercing. See Preamble and Discussion of Regulation above. See Determination of Need and Reasonableness below.

Legal Authority: Sections Section 44-32-10, *et seq*, South Carolina Code of Laws, 1976, as amended (2000).

Plan for Implementation: The proposed amendment will take effect upon publication in the *State Register* following approval by the S.C. General Assembly. The proposed amendment will be implemented by providing the regulated community with copies of the regulation.

DETERMINATION OF NEED AND REASONABLENESS OF THE PROPOSED REGULATION AMENDMENT BASED ON ALL FACTORS HEREIN AND EXPECTED BENEFITS:

This regulation is needed and reasonable because its development will satisfy a legislative mandate pursuant to the South Carolina Code, Section 44-32-10. See Preamble above.

The regulation is needed and reasonable because it will promote public health by providing standards for body piercing, thereby reducing the likelihood of adverse outcomes as a result of unsafe procedural conditions.

DETERMINATION OF COSTS AND BENEFITS: There will be additional cost to the state and its political subdivisions. There will be fees for permitting thereby creating cost to the regulated community.

UNCERTAINTIES OF ESTIMATES: None

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EFFECT ON ENVIRONMENT AND PUBLIC HEALTH: There will be no effect on the environment. The regulation will promote public health by providing standards for body piercing thereby reducing the likelihood of adverse outcomes as a result of unsafe procedural conditions.

DETRIMENTAL EFFECT ON THE ENVIRONMENT IF THE REGULATION AMENDMENT IS NOT IMPLEMENTED: There will be an adverse effect on the public health if the regulation is not implemented, since the implementation of uniform, comprehensive standards based on effective established sanitary and infection control procedures and practices would not be realized, thus denying the public these protections thereby increasing the potential that the public may be harmed. In addition, failure to implement will deny compliance to the statutory mandate for DHEC to promulgate these standards.

Document No. 2671

DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL
CHAPTER 61

Statutory Authority: 1976 Code Sections 48-1-50 and 48-1-110

R. 61-67. Standards for Wastewater Facility Construction

Synopsis:

This amendment will allow the use of vacuum sewer systems and establish additional criteria for alternative collection system use. In addition, this amendment will address the consistency of administrative and technical review issues in comparison with the drinking water standards (R.61-58). This amendment also establishes changes in pump and haul criteria, service connection and water supply intake definitions, criteria for sewer design related to infiltration and inflow, rules for application submittal requirements and available capacity at treatment plant determinations, as well as addressing other minor changes and clarification as needed for overall improvement of the regulation. See Discussion of Revisions below and Statement of Need and Reasonableness herein.

Discussion of Revisions:

<u>SECTION CITATION:</u>	<u>EXPLANATION OF CHANGE:</u>
61-67 (Throughout)	Deleted the word "sewerage" used throughout regulation. Changed to "wastewater" or "wastewater facilities", as appropriate.
67.100.D.	Removed the individual section numbers for each definition. Added new definitions for General Construction Permit, Primary Source Water Protection Area, Vacuum Sewers, and Water Supply Intake Area. Revised several existing definitions for Alternative Collection System, Main Sewer, Service Connection, and Sewers. Deleted "[Reserved]" from the definitions.
67.100.D.	Construction Permit definition: Changed the word "sewerage" to "wastewater".
67.100.E.4.	Added a sentence pertaining to the return of an application package if it conflicts with the applicable 208 Water Quality Management Plan.
67.100.E.4.a.	Added a sentence requiring separate applications for each wastewater treatment plant.
67.100.E.4.a.(4)	Added a sentence stating when profiles of sewer lines are required.

- 67.100.E.4.a.(10) Added language requiring the letter of acceptance to be dated within last twelve (12) months.
- 67.100.E.4.a.(11) Added language requiring the letter of acceptance to be dated within last twelve (12) months.
- 67.100.E.4.b. Added the word “applicable”.
- 67.100.E.4.b.(4) Added a sentence stating when profiles of sewer lines are required.
- 67.100.E.4.b.(10) Added language requiring the letter of acceptance to be dated within last twelve (12) months.
- 67.100.E.4.b.(11) Added language requiring the letter of acceptance to be dated within last twelve (12) months.
- 67.100.E.7. Deleted the language requiring the Department’s final inspection of a project.
- 67.100.E.7.b. Added language requiring stamped, record drawings to be submitted for operational approval.
- 67.100.E.7.d. Added a new section stating that the Department may perform an inspection.
- 67.200.A. Added the language “(appropriate to the scope of the project)”, for engineering reports.
- 67.200.D.1.a.(2) Added a sentence clarifying what the flow diagrams shall identify.
- 67.200.D.1.c.(1)(a) Added the word “applicable”.
- 67.200.D.1.c.(1)(a)(i)-(iv) Clarified the flow values by adding the time periods, and the term “Peak hourly”.
- 67.200.D.1.c.(2) Added the language “(or domestic facilities with significant industrial contributions)”.
- 67.200.D.1.c.(3) Added a sentence noting what the design of the domestic wastewater treatment facility with significant industrial contributions shall account for.
- 67.200.D.1.c.(12) Added the language “(as applicable with domestic facilities with significant industrial contributions)”.
- 67.200.D.1.d. Deleted the “ing” from the word disposing. Added the language “(consistent with other Department regulations governing sludges)”.
- 67.200.D.1.e. Added a sentence requiring maps be provided for effluent or sludge land application sites.
- 67.200.D.1.f.(9) Deleted the language “and.”.
- 67.200.D.1.f.(10) Deleted “.” and added the language “; and.”.

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- 67.200.D.1.f.(11) Added a new section requiring the evaluation of the location of buffer zones for spraying effluent.
- 67.200.D.1.h.(2) Added the words “(or other applicable flow information)”.
- 67.200.D.1.h.(4)(a) Added the words “supply” and “(potable and non-potable)”.
- 67.200.D.1.i. Added a sentence and language noting who is responsible for providing water quality assessments and modeling. Added the language “the parameter for which standards have been established (R.61-68) such as”.
- 67.200.D.1.k. Deleted the words “The following shall be evaluated.”.
- 67.200.D.1.k.(1) Replaced this section in its entirety.
- 67.200.D.2. Changed the word “preliminary” to “proposed”.
- 67.200.D.2.b. Changed the words “sewerage treatment facility” to “facilities”. Changed the words “daily flow” to “and peak flows”.
- 67.300.A.4. Added the language “and to confirm ownership requirements are met”.
- 67.300.A.6. Added the language “and navigable waters easements,”.
- 67.300.A.7. Added the language “(or either the period to appeal has lapsed without appeal, or the appeal has been resolved to sustain the permit)”.
- 67.300.A.8. Added the language “(including considerations of infiltration and inflow),”.
- 67.300.A.8.a. Changed the words “sewerage system” to “wastewater facilities”. Added the language “(including considerations of infiltration and inflow),”.
- 67.300.A.8.b. Changed the word “adequate” to “available”. Added language concerning the advancement of effluent disposal capacity for a wastewater treatment facility. Changed the words “,to compensate for non-permitted flows,” to “to address issues”.
- 67.300.A.8.c.(3) Added language pertaining to the appeal of an effluent disposal permit.
- 67.300.A.9. Added a sentence noting a possible exception to the requirement for public ownership of a project serving more than one (1) parcel of deeded property.
- 67.300.A.11. Added the word “hourly” to peak flow, and the word “daily” to average flow projection.
- 67.300.A.18. Changed the word “shall” to “may”.
- 67.300.A.19. Added language pertaining to general certification of a project by OCRM.
- 67.300.B.4. Changed the word “laid” to “designed”.
- 67.300.B.6. Added language pertaining to consideration of curvilinear sewers for those in excess of twenty four (24) inches in diameter.

- 67.300.B.8. Changed the word “nor” to “except when” and added the word “not”.
- 67.300.C.1. Added the words “or other means of controlling access”.
- 67.300.C.5. Added a sentence requiring that a pump station alarm system be designed to function if power is not available to the pump. Changed the words “water supply intake” to “primary source water protection”.
- 67.300.C.9. Added language to clarify which shutoff valves at a pump station are being referred to.
- 67.300.C.15. Changed the words “water supply intake” to “primary source water protection”. Added a sentence allowing the Department to evaluate auxiliary power requirements for certain businesses.
- 67.300.C.15.a. Added language to clarify the on site standby generator requirement.
- 67.300.C.15.b. Added the language “, with automatic switching feature”.
- 67.300.C.15.d. Deleted the words “gasoline driven”.
- 67.300.D.5. Added language to provide an alternative for force main connections to existing manholes.
- 67.300.D.7. Added a new section requiring a check valve be provided on individual force mains.
- 67.300.E. Deleted the words “for Residential Development”.
- 67.300.E.1.a. Added the language to include vacuum systems and expanding the sentence pertaining to reliable system operation and maintenance.
- 67.300.E.1.c. Added the words “low population”, to the word density.
- 67.300.E.1.e. Changed the word “sewers” to “wastewater facilities”.
- 67.300.E.2.c. Added the words “, unless otherwise approved by the Department”.
- 67.300.E.4. Deleted the words “These types of systems are not approved.” pertaining to vacuum sewers.
- 67.300.E.4.a.- d. Added new sections listing the design requirements for vacuum sewer systems.
- 67.300.E.5. Deleted this section pertaining to non-residential development.
- 67.300.F.2. Added the language “or other means of controlling access”.
- 67.300.F.6. Changed the existing language to help clarify the intent and added a sentence requiring that potential odors be addressed for equalization or holding basins.
- 67.300.F.9. Added language pertaining to holding basin liner requirements, specifically to allow for alternatives to this requirement for treated wastewater. Added the words “to preclude inappropriate seepage”.

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- 67.300.F.12. Added a sentence requiring the wastewater treatment facility to account for return flows, as far as quantity and quality.
- 67.300.F.15.c. Added the words “and/or a discharge other than treated wastewater”.
- 67.300.F.16. Added the sentence “Disposal shall be consistent with applicable Department regulations.”, pertaining to the disposal of wastewater treatment facility residuals.
- 67.300.F.17. Added a sentence requiring that a closure plan be approved by the Department prior to actual closure.
- 67.300.G.1.b.(3) Added the language “As a prerequisite for approval of a pump and haul operation.”. Changed the word “The” to “the”.
- 67.300.G.1.b.(4) Added the sentence “The Department may specify a form to be used for reporting.”.
- 67.300.G.1.b.(5) Changed the words “on a daily basis” to “during each day’s use”, and added the words “, and pumped out as needed”.
- 67.300.G.1.b.(6)(d) Added the language “some type of financial assurance (e.g.,” and “)”. Deleted the words “responsible for” and the sentence “The responsible party shall have complete control of the escrow account.” Added the words “(e.g., contract hauler)”.
- 67.300.G.1.b.(6)(e) Added a sentence allowing consideration of alternative storage capacity requirements for non-residential applications.
- 67.300.G.2. Deleted the sentence “Pump and haul operations may be allowed in accordance with the following:” from this section. Relocated this sentence to a new section, for clarity.
- 67.300.G.2.a. Relocated the following sentence to this new section, for clarity. “Pump and haul operations may be allowed in accordance with the following:”.
- 67.300.G.2.a.(1)-(6) Re-numbered these subsections for clarity.
- 67.300.G.2.a.(5)(c) Added the words “(including consideration for sewer and treatment capacity and capability)”.
- 67.300.G.2.b.-e. Added four (4) new sections to address permanent and temporary pump and haul operations for industrial facilities, and to address situations when an industry has been disconnected from sewer service.
- 67.300.H.2.b. Added the language “(and would be used to revise the current level of remaining capacity)”.
- 67.400.B. Replaced this section in its entirety to help bring clarity to the current requirement. Relocated some of the existing text and added some additional language, such as noting specific requirements are not for existing facilities and those facilities, such as industrial operations, that can shut down their operations.
- 67.400.D.1. Added the word “and” and changed the existing language and added some additional language to this section for clarification.

67.400.D.2. Added the language “(i.e., at the influent of the plant, with consideration given to untreated wastewater storage basins located at other locations)”. Added the word “average” to twenty four (24) hour design flow. Added a sentence allowing considerations of other alternatives to the twenty four (24) hour capacity holding basin.

Appendix B Relocated the section on General Construction Permits, in its entirety, from subsection 67.300.A.20. to a new Appendix B for clarification. Text remained the same; however, several subsections referenced in the text did slightly change based on relocating this section to a new Appendix B.

Instructions: Amend R.61-67 pursuant to each individual instruction provided with the text of each amendment below:

Text:

Replace R.61-67.100.D. in its entirety to read:

D. General Definitions. All other definitions have the meaning given by the Pollution Control Act.

“208 Water Quality Management Plan” (208 Plan) means a Statewide and regional plan developed pursuant to Section 208 of the Federal Clean Water Act.

“208 Water Quality Management Plan Entity” means the government organization responsible for certifying if projects are consistent with 208 Water Quality Management Plans.

“7Q10” as defined in Regulation 61-68.

“Actual Flow” means a long term average of effluent flow as reported by Discharge Monitoring Reports.

“Alternative Collection System” means a system designed to collect wastewater from individual sources utilizing solids interceptor tank effluent systems (gravity or pressure), and grinder systems. This definition includes vacuum sewer systems. An exception is where a system such as a grinder pumping system, which serves one building or residence, meets the definition of a service connection (e.g., force main connecting to a gravity sewer).

“Alternative Sewer Management Plan” means a plan, approved by the Department, that allows entities to authorize individual connections to an alternative sewer collection system (using force main sewers) by an entity participating in the Delegated Review Program.

“Auxiliary Power” means provisions to provide backup electrical and/or mechanical power.

“BOD” means Biochemical Oxygen Demand.

“COD” means Chemical Oxygen Demand.

“CWA” means the Federal Clean Water Act (formerly referred to as the Federal Water Pollution Control Act or Federal Water Pollution Control Act Amendments of 1972) Pub. L. 92-500, and all amendments thereto, codified at 33 U.S.C. 1251 et seq., and any subsequent amendments. Specific references to sections within the CWA shall be according to Pub. L. 92-500 section.

“Collection System” means a pipeline system designed to receive wastewater or treated effluent directly from individual sources.

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“Construction Permit” means a State permit authorizing construction of wastewater facilities including, but not limited to, wastewater treatment systems, interceptors, and collection systems.

“Delegated Review Program” means a Department program by which the technical review for the construction of sewer systems is delegated to local entities.

“Department” means the South Carolina Department of Health and Environmental Control.

“Discharge Monitoring Report” (DMR) means the Environmental Protection Agency (EPA) uniform national form, including any subsequent additions, revisions, or modifications for the reporting of self monitoring results by permittees, and modified to substitute the State Agency name, logo, and other similar information, as appropriate, in place of EPA’s.

“EPA” means the United States Environmental Protection Agency.

“Effluent Disposal Permit” means an NPDES or Land Application Permit.

“Force Main Sewer” means a pipeline carrying wastewater or treated effluent in which the flow in the pipeline is dependent on and driven by a pump station.

“GPD” means gallons per day.

“GPM” means gallons per minute.

“General Construction Permit” means a permit issued pursuant to Appendix B of this regulation.

“General Permit” means a State permit or National Pollutant Discharge Elimination System (NPDES) permit issued under Regulation 61-9.122.28 authorizing a category of discharges or activities under the Pollution Control Act (PCA) and CWA within a geographical area.

“Gravity Sewer” means a pipeline carrying wastewater or treated effluent which flows exclusively under the influence of gravity (i.e., no pump station).

“Interceptor Sewer” means a pipeline system designed to transport wastewater or treated effluent from one location to another. Interceptor sewers can flow under pressure (i.e., force main) or by gravity.

“Interceptor Tanks” means tanks and other devices designed to remove solids from raw wastewater prior to discharging to an alternative collection system.

“L.F.” means linear feet.

“Land Application Permit” means a permit issued by the Department to a discharger for all land application disposal systems.

“Main Sewer” means the sanitary sewer system beginning at the point where two (2) or more individual service lines connect together, except as otherwise defined as a service connection and except as noted in R.61-67.300.A.4.

“Major Sources of Waste” means those wastes that may have or tend to have a potentially adverse effect on wastewater treatment facility design and operation and water quality (e.g., textile dyeing, finishing, metal plating, and slaughter house waste). This includes waste identified as a “Significant Industrial User” under Regulation 61-9.403.2(n).

“mg/l” means milligrams per liter.

“MGD” means million gallons per day.

“NPDES” means National Pollutant Discharge Elimination System.

“NPDES Permit” means a permit issued by the Department to a discharger pursuant to regulations adopted by the Department’s Board for all point source discharges into surface waters, and shall constitute a final determination of the Board.

“Navigable Waters” as defined in Regulation 19-450, Permits for Construction in Navigable Waters. Navigability is determined by the Department.

“Notice of Intent (NOI)” means a form used by potential permittees to notify the Department, within a specified time that they intend to comply with the general permit, or that they do not desire to be covered by the general permit and desire an individual construction permit.

“OSHA” means the Occupational Safety and Health Administration.

“Permitted Flow” means the value equivalent to the sum of flows as computed for the purpose of issuing construction permits for sewer lines or other connections to the systems.

“PCA” means the South Carolina Pollution Control Act, S.C. Code Ann. Section 48-1-10 et seq. (1987), and any subsequent amendments.

“Pretreatment Facility” means a facility which provides reduction of the amount of pollutants, elimination of pollutants or the alteration of the nature of pollutant properties in wastewater prior to or in lieu of discharging or otherwise introducing such pollutants into a publicly owned treatment works (POTW) or other treatment system not owned by the facility.

“Primary Source Water Protection Area” means the surface-water flow system and drainage area upstream of an existing or proposed public water system intake, delineated by the Department as the in-stream twenty four (24) hour time of travel distance for the ten (10) percent exceedance flow (i.e., primary source water protection area).

“Private Entity” means any private corporation, association, partnership, corporation, industry, copartnership, firm, trust, estate, any other legal entity whatsoever, or an agent or employee thereof.

“Public Entity” means organizations such as a city, town, county, municipality, or special purpose sewer district.

“POTW” means a publicly owned treatment works.

“Pump and Haul” means an operation whereby process wastewater as defined in Regulation 61-9.122.2 or domestic wastewater is collected and stored in Department approved facilities and then hauled by tanker truck or other vehicle to an off-site receiving facility such as a POTW. Pump and haul in this context does not apply to management of spills.

“Receiving Waters” means waters of the State.

“Service Connection” means an individual gravity sewer line, or an individual pump station and force main, serving only one (1) building or one (1) residential lot with domestic or industrial wastewater connecting to a

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gravity sewer system. Oil/Water Separators, pH Adjustment Systems, and other similar simple industrial wastewater treatment systems (as determined by the Department) will be considered a component of the service connection when a local pretreatment permit is not required. A Service Connection does not include the following:

- a. Individual connections, where at the time of connection, design flow contribution shall be greater than five (5) percent of the existing wastewater treatment facility's design capacity or shall generate flows greater than fifty thousand (50,000) gallons per day.
- b. Individual connections to force main sewers and vacuum sewer connections beginning with the valve pit.
- c. A gravity sewer line or pump station and force main serving more than one (1) building or more than one (1) residential lot.
- d. Sewer lines that have the reasonable ability to serve any additional projects and/or buildings in the future.

“Sewers” means a gravity sewer line, vacuum sewers or a force main.

“State” means the State of South Carolina.

“TOC” means Total Organic Carbon.

“USGS” means the United States Geological Survey.

“Vacuum Sewers” means an alternative collection system designed to operate under the influence of a vacuum pumping station.

“Wastewater Facilities” means main sewers, wastewater collection systems, pump stations and force mains, wastewater treatment facilities and components.

“Wastewater Treatment Facility” means a system of structures, equipment and related appurtenances designed to treat, store, or manage wastewater. Wastewater treatment facility shall include pretreatment facilities and wastewater recycling facilities, which are not part of an industrial manufacturing process.

“Water Supply Intake Area” means that portion of the primary source water protection area representing the twenty four (24) hour time of travel distance for the ninety (90) percent exceedance flow.

Replace R.61-67.100.E.4. to read:

4. Construction Permit Submittal. The construction permit application shall include the following documentation, where applicable, in order to be considered a complete submittal. Incomplete submittal packages may be returned without processing. The application package may be returned if the determination is made that it conflicts with the applicable 208 Water Quality Management Plan.

Replace R.61-67.100.E.4.a. to read:

a. Standard Submittal. Includes all projects that fall outside the scope of the Delegated Review Program. A separate application shall be made for each wastewater treatment plant addressed.

Replace R.61-67.100.E.4.a.(4) to read:

(4) Three (3) copies of detailed plans signed and sealed by a professional engineer as stated in subsection 67.100.E.2. General layout on plan sheets no larger than thirty (30) inches by forty-two (42) inches. Profiles of sewer lines required for all gravity sewers, all vacuum sewers and force mains of four (4) inches or greater;

Replace R.61-67.100.E.4.a.(10) to read:

(10) If the owner of the project is different from the entity that will be accepting the wastewater for treatment, a letter of acceptance (dated within twelve (12) months of application) from that entity stating their willingness and ability to provide the wastewater treatment that, when applicable, includes the specific number of lots and flow being accepted; and

Replace R.61-67.100.E.4.a.(11) to read:

(11) If the owner of the project is different from the entity that will be responsible for operating and maintaining the project, a letter (dated within twelve (12) months of application) from that entity acknowledging such responsibility.

Replace R.61-67.100.E.4.b. to read:

b. Delegated Review Program (DRP) Submittal. Includes only those applicable projects submitted to the Department for permitting by a Department approved DRP entity.

Replace R.61-67.100.E.4.b.(4) to read:

(4) Two (2) copies of detailed plans signed and sealed by a professional engineer as stated in subsection 67.100.E.2. General layout on plan sheets no larger than thirty (30) inches by forty-two (42) inches. Profiles of sewer lines required for all gravity sewers, all vacuum sewers and force mains of four (4) inches or greater;

Replace R.61-67.100.E.4.b.(10) to read:

(10) If the owner of the project is different from the entity that will be accepting the wastewater for treatment, a letter of acceptance (dated within twelve (12) months of application) from that entity stating their willingness and ability to provide the wastewater treatment that, when applicable, includes the specific number of lots and flow being accepted;

Replace R.61-67.100.E.4.b.(11) to read:

(11) If the owner of the project is different from the entity that will be responsible for operating and maintaining the project, a letter (dated within twelve (12) months of application) from that entity acknowledging such responsibility;

Replace R.61-67.100.E.7. to read:

7. Approval to Place in Operation. Newly-constructed facilities shall not be placed into operation until an approval to place in operation is issued by the Department. Upon completion of the permitted construction, the applicable professional engineer shall submit to the Department the following:

Replace R.61-67.100.E.7.b. to read:

b. Other submission requirements include, but may not be limited to, information to confirm ownership, operation and maintenance of the project, documentation of sewer leakage and pump tests, along with information concerning the treatment plant operator (where applicable); Stamped, record drawings by the engineer of record; and

Add new section R.61-67.100.E.7.d. to read:

d. After review of this information provided by the applicable professional engineer, the Department may perform an inspection prior to finalizing its review of the request for an approval to place in operation.

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Replace R.61-67.200.A. to read:

A. Purpose. Engineering Report herein after means Preliminary Engineering Report. The purpose of this section of the regulation is to provide for the review and approval of Engineering Reports and Proposals for wastewater facilities. All applicable data and information required and outlined in this section of the regulation (appropriate to the scope of the project) shall be submitted in the form of an Engineering Report to the Department before acceptance for review.

Replace R.61-67.200.D.1.a.(2) to read:

(2) A flow diagram of the proposed wastewater treatment facility or modification shall be provided with the project description section of the Engineering Report. Such diagrams shall identify any bypass line or structures to bypass flow around treatment units.

Replace R.61-67.200.D.1.c.(1)(a) to read:

(a) Applicable flow values shall be measured where flow exists (i.e. wastewater treatment facility being upgraded but not expanded for additional volume). Flow (daily total and daily variations) shall include:

Replace R.61-67.200.D.1.c.(1)(a)(i)-(iv) to read:

- (i) Monthly average;
- (ii) Minimum;
- (iii) Daily maximum; and
- (iv) Peak hourly.

Replace R.61-67.200.D.1.c.(2) to read:

(2) Solids. Solids parameters shall be measured where flow exists. Where flows are proposed, the normal characteristics of domestic waste are acceptable. Comparative or literature cited values may be acceptable for industrial flows (or domestic facilities with significant industrial contributions). The following shall be evaluated:

Replace R.61-67.200.D.1.c.(3) to read:

(3) Strength of the Waste. An estimate of the total oxygen demand such as the Chemical Oxygen Demand (COD) shall be provided where industrial wastes are involved in part or in total. The average values coupled with diurnal and seasonal fluctuations, measured or anticipated, shall be provided in the engineering evaluation and design of the wastewater treatment facility where such fluctuations effect compliance with the proposed effluent disposal permit limitations. For domestic facilities with significant industrial contribution, the design shall account for additional industrial loading (e.g., higher strength of waste). This evaluation shall include:

Replace R.61-67.200.D.1.c.(12) to read:

(12) A list of the industrial process chemicals that may affect the quality of the effluent shall be incorporated into the Engineering Report, where possible, and be accompanied by toxicity levels when such toxicity values have been reported in the literature (as applicable with domestic facilities with significant industrial contributions).

Replace R.61-67.200.D.1.d. to read:

d. Treatability of Waste. This section shall include a discussion of the treatability of the wastewater based, where applicable, on treatability studies (pilot or bench scale) or secondarily, on a discussion of the literature concerning the treatability of the wastewater. Data from existing operating wastewater treatment

facilities, which have similar wastewater and treatment systems as the proposed wastewater treatment facility, may also be used. Sufficient data shall be provided to show that the facilities are comparable, including influent and effluent characteristics. All literature referenced shall be cited and pertinent information quoted or provided. A conclusion shall be included as to the selected method of treatment and anticipated quality and characteristics of the effluent as identified by information provided pursuant to these provisions. Sludges generated by the proposed treatment system shall be characterized, and a specific method for treatment and disposal of these sludges (consistent with other Department regulations governing sludges) shall be presented. This section shall also address the feasibility and/or anticipated plans for segregating process wastewater for treatment, substitution of biodegradable for non-biodegradable process materials, substitution of non-toxic for toxic materials, and of recycle of a fraction or the whole of wastewater flows.

Replace R.61-67.200.D.1.e. to read:

e. Location of Subject Area and Point of Discharge. This section shall include a description of the proposed wastewater treatment facility location and the proposed point of discharge (give latitude and longitude) located on an appropriate map and referenced to named roads, physical sketch plan of receiving waters, and the existing wastewater treatment facility (if applicable). Such a map layout shall enable persons unfamiliar with the proposed areas to locate the site. Pretreatment facilities shall provide on a map the location of the connection of their sewer line(s) to the sewer line or wastewater treatment facility accepting their wastewater in lieu of the receiving waters. Projects with land application of effluent or sludge shall provide maps of the location(s) of each site.

Replace R.61-67.200.D.1.f.(9) to read:

(9) Location of right of ways, such as pipelines, and power lines;

Replace R.61-67.200.D.1.f.(10) to read:

(10) Proposed location(s) and description of groundwater monitoring well(s), where necessary; and,

Add new section R.61-67.200.D.1.f.(11) to read:

(11) Location of buffer zones for spraying effluent (consistent with R.61-9.505).

Replace R.61-67.200.D.1.h.(2) to read:

(2) If not determined by the Department, the 7Q10 (or other applicable flow information) shall be provided and referenced to the information source. Where published information is not available, any currently published method of computing the 7Q10 by comparative or synthetic means may be acceptable. However, a description of the method employed and justification for the value derived shall be incorporated in this section. This information is not required for non-process wastewater discharges.

Replace R.61-67.200.D.1.h.(4)(a) to read:

(a) Downstream water supply intakes (potable and non-potable);

Replace R.61-67.200.D.1.i. to read:

i. Impact of Discharge on Receiving Waters. Water quality assessments and water quality modeling are the responsibility of the person requesting the Department's approval of a project. In some cases, the Department will provide these services. This section applies to all domestic discharges and those industrial facilities (except pretreatment facilities) whose wastewaters are expected to exhibit an oxygen demand on the receiving waters or as determined by the Department. This section shall contain a quantitative and qualitative assessment of the

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effects of the proposed discharge on the receiving stream. This determination shall consist of the projected effect the discharge shall have on the dissolved oxygen content of the receiving stream (e.g., dissolved oxygen profile of the stream). Stream models may not be completely applicable to small streams, intermittent streams and sluggish or impounded waters. The situation and surrounding facts shall be made known in the pre-design conference at which time a mutual decision may be made as to the best manner in which the impact on the receiving waters can be determined based on the current available technology and techniques. Consulting engineers and the permittees shall recognize the importance of the impact assessment and that, in some cases, a thorough stream study to be conducted by the owner through the consulting engineer may be required. Quantitative assessments shall be presented as to the anticipated concentrations of phenols, heavy metals, pesticides, herbicides, solids, petroleum byproducts, and other materials significant in nature, in the receiving stream after adequate mixing of the discharge with the design stream flow. This section shall also qualitatively address the effect the proposed discharge shall have on the parameter for which standards have been established (R.61-68) such as the pH, fecal coliform concentration, and nutrient levels in the receiving waters.

Replace R.61-67.200.D.1.k. to read:

- k. Alternatives Analysis and Consolidation of Facilities.

Replace R.61-67.200.D.1.k.(1) in its entirety to read:

(1) In accordance with R.61-68 rules on anti-degradation, the Department shall consider 67.200.D.1.k.(1)(a) and 67.200.D.1.k.(1)(b) below when evaluating any proposed expansion or new discharge to waters of the State that will lower water quality to a measurable effect. This includes, but is not limited to, the new or increased loading of any pollutant or pollutant parameter in the effluent regardless of whether the discharge flow changes.

(a) An alternatives analysis, conducted by the applicant, must demonstrate to the Department that none of the following applicable alternatives that would minimize or eliminate the lowering of water quality are economically and technologically reasonable:

- (i) water recycle or reuse;
- (ii) use of other discharge locations;
- (iii) connection to other wastewater treatment facilities;
- (iv) use of land application;
- (v) product or raw material substitution; and
- (vi) any other treatment option or alternative.

(b) After the alternatives analysis is completed, the Department shall evaluate whether a proposed discharge that will result in the lowering of water quality of a waterbody, and for which there are no economically or technologically reasonable alternatives, is necessary for important economic or social development. For this to be accomplished, several economic and social factors must be considered. If an evaluation of the economic and social factors reveals that affordable treatment options that, combined with any alternatives, would prevent the need for the lowering of water quality, the Department shall deny the request. Conformance of the proposed discharge with the applicable 208 Areawide Water Quality Management Plans may demonstrate importance to economic and social development as well as intergovernmental coordination and public participation. Activities requiring permits or certification by the Department shall provide for public participation through the Department's existing public notification processes. Economic and social factors to be considered may include the following:

- (i) employment (increases, maintenance, or avoidance of reduction);
- (ii) increased industrial production;
- (iii) improved community tax base;
- (iv) improved housing; and/or

- (v) correction of an environmental or public health problem.

Replace R.61-67.200.D.2. to read:

2. Wastewater Collection and Transmission Facilities. Because of the nature of most collection/transmission systems a detailed Engineering Report is not usually required, unless specifically required by the Department. If required by the Department, the Engineering Report shall be submitted to the Department's appropriate wastewater division, along with the proposed plans for the collection system. This report shall include, but not be limited to, the following:

Replace R.61-67.200.D.2.b. to read:

b. A description of the wastewater facilities to service the proposed system to include the name, location, and permit number for the wastewater treatment facility; the present hydraulic load (average and peak flows); identification and permit numbers of other collection/transmission systems served or that are permitted to feed into the facility; and actual performance of the existing wastewater treatment facility under the present loading conditions. Performance figures to include removal efficiencies for BOD and suspended solids (and other parameters of importance to subject wastewater treatment facility evaluation) as measured or as extracted from current composite facility operating records.

Replace R.61-67.300.A.4. to read:

4. Double residential service connections are not considered main sewers and shall, therefore, not require a construction permit from the Department. However, the common line shall be owned, operated and maintained by the same entity that owns the main sewer system that the common line is tying onto. Other double service connections shall be reviewed by the Department on a case-by-case basis, to determine if a construction permit is required and to confirm ownership requirements are met.

Replace R.61-67.300.A.6. to read:

6. When the proposed system is located off the applicants property, easements or documentation of recorded easements, excluding encroachment permits and navigable waters easements, are required to be submitted to the Department prior to permitting for all applicants with the exception of public entities or other applicants that have the right of eminent domain.

Replace R.61-67.300.A.7. to read:

7. No construction permit shall be issued for a wastewater treatment facility, including effluent disposal lines, unless the applicable effluent disposal permit has been issued and has not been appealed (or either the period to appeal has lapsed without appeal, or the appeal has been resolved to sustain the permit). In cases where the effluent disposal permit has been issued, but has been appealed according to applicable laws and regulations, the effluent disposal permit shall be considered not to have been issued for the purposes of determining whether a construction permit may be issued for proposed wastewater treatment facilities.

Replace R.61-67.300.A.8. to read:

8. Proposed sewer systems shall connect to existing systems with available capacity or to another proposed sewer system, with available capacity (including considerations of infiltration and inflow), which has already received a construction permit from the Department. Where a construction permit has been issued on the downstream components though not yet operational, a construction permit on the proposed sewer system may be issued, but the approval to place in operation shall not be issued until all downstream components have received an approval to place in operation.

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Replace R.61-67.300.A.8.a. to read:

a. Downstream Sewer Systems. Construction permits shall not be issued in cases where adequate capacity in the downstream components of the wastewater facilities is not available to handle the design flow of the proposed project. Adequate capacity for sewer lines and pump stations means that the existing sewer facilities, including the wastewater treatment facility receiving the wastewater, have the capacity as currently permitted. An evaluation of available capacity may be made based on factors such as flow projections from previously permitted projects (including considerations of infiltration and inflow).

Replace R.61-67.300.A.8.b. to read:

b. Downstream Treatment Systems. For public and private entities, available capacity in wastewater treatment facilities may be based on its effluent disposal permit capacity (i.e., capacity may be advanced where the effluent disposal capacity is greater than the actual facility capacity to treat and dispose of wastewater). This advancing of capacity is acceptable unless actual flows exceed the permit flow limits of the existing wastewater treatment facility or the facility has violated other limits that have led to Department's issuance of an order to remedy the problems (and the problem has not been corrected). For facilities seeking to have capacity advanced, the Department may require an agreement with the permittee to detail the conditions of advancing capacity. The permitted flow at a wastewater treatment facility may be adjusted based on a review of Discharge Monitoring Reports data or other data collected by independent sources to address issues such as infiltration and inflow.

Replace R.61-67.300.A.8.c.(3) to read:

(3) the increase to the effluent disposal permit has been issued and has not been appealed (or either the period to appeal has lapsed without appeal, or the appeal has been resolved to sustain the permit) for the wastewater treatment facility so that there is adequate permit capacity available for the proposed sewer system.

Replace R.61-67.300.A.9. to read:

9. Prior to the issuance of a construction permit for a collection system, including pump stations and force mains, to serve more than one (1) parcel of deeded property (e.g., subdivisions, condominiums), with the exception of industrial facilities, the project owner shall provide the Department with documentation that the collection system, including the pump stations and force mains, shall be owned, operated and maintained by a public entity. An exception can be made where there are several platted properties with a common owner in an area (e.g., hospital complex) where there is not a reasonable expectation that the project area would later serve different owners. Proposals by private entities shall be evaluated on a case-by-case basis. The Department may evaluate the capability of reliable system operation in its evaluation.

Replace R.61-67.300.A.11. to read:

11. Peak hourly flow projections shall be at least two and one half (2.5) times the average daily flow projection, unless otherwise justified by the applicant and approved by the Department. Where actual data are available, the Department may require its use in determining a peaking factor.

Replace R.61-67.300.A.18. to read:

18. If a proposed wastewater system requires construction in State navigable waters and the Department determines that a permit shall be issued for the construction in navigable waters, considerations of the navigable waters permit process may be incorporated into the review for the wastewater construction permit.

Replace R.61-67.300.A.19. to read:

19. If a proposed wastewater system requires construction within one of the eight coastal counties (Horry, Georgetown, Berkeley, Charleston, Dorchester, Colleton, Beaufort, and Jasper) Coastal Zone consistency review

shall be provided by the Department's Office of Ocean and Coastal Resource Management (OCRM) as part of the wastewater construction permit process, unless a general certification applicable to the project from OCRM has already been provided.

Replace R.61-67.300.B.4. to read:

4. Sewers shall be designed with a uniform slope between manholes.

Replace R.61-67.300.B.6. to read:

6. Sewers twenty four (24) inches or less in diameter shall be laid with straight alignment between manholes. Consideration for curvilinear sewers in excess of twenty four (24) inches in diameter shall be evaluated on a case-by-case basis.

Replace R.61-67.300.B.8. to read:

8. Manholes shall be installed: at the end of each line; at all changes in grade, size, or alignment; at all intersections of piping; and at distances not greater than four hundred (400) feet for sewers fifteen (15) inches or less, and five hundred (500) feet for sewers eighteen (18) inches to thirty (30) inches. Distances up to six hundred (600) feet may be approved, for sewers equal to or greater than eight (8) inches in diameter, in cases where adequate cleaning equipment for such spacing is provided. Greater spacing may be permitted in larger sewers. Cleanouts may be used only for special conditions and shall not be substituted for manholes except when installed at the end of laterals not greater than one hundred fifty (150) feet in length. A drop pipe shall be provided for a sewer entering a manhole at an elevation of twenty four (24) inches or more above the manhole invert. Where the difference in elevation between the incoming sewer and the manhole invert is less than twenty four (24) inches, the invert shall be filleted to prevent solids deposition. Manholes may not be required on sewer lines transporting special waste (e.g., volatile organic compounds) or effluent wastewater from a treatment facility.

Replace R.61-67.300.C.1. to read:

1. Each pump station shall be fenced or secured in a locked building/enclosure or be located in a restricted access area to prevent access by unauthorized persons. The type of fencing or other means of controlling access shall be approved by the Department.

Replace R.61-67.300.C.5. to read:

5. Pump stations shall have an alarm system (e.g., audible and visible high water alarm, centralized automated alarm system). The alarm system shall be designed to function if power is not available for any pump. For pump stations located in remote and/or environmentally sensitive areas (e.g., adjacent to shellfish harvesting areas, designated recreational areas, and primary source water protection areas), the Department may require an automatic dialing system via dedicated phone line or equivalent systems to assure minimal impact in the event of pump station failures. In remote and/or environmentally sensitive areas, the Department may also require that a backup battery pack be provided in the control panel of the pump stations so that in the event of a power outage the audible/visible high water alarms and/or automatic dialing system shall still be activated.

Replace R.61-67.300.C.9. to read:

9. The shutoff valve(s) for the pump station, as required in subsection 67.300.C.8. above, or an additional shutoff valve on the common discharge line, shall be located outside of the wet well in a separate valve pit or other apparatus (e.g., valve box) to facilitate proper use of the valve. In certain cases, the Department may require watertight design of the pit or other apparatus for the purpose of capturing valve leakage. For watertight design, it shall have a means of dewatering (e.g., drain line) back to the wet well, with provisions for preventing gases from entering the pit from the wet well.

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Replace R.61-67.300.C.15. to read:

15. An emergency operation plan on the sewer pump station(s) shall be provided. For areas determined by the Department to be environmentally sensitive (e.g., shellfish harvesting areas, designated recreational waters, or primary source water protection areas located in close proximity), the Department may require more extensive plans and equipment, including on site auxiliary power or a Department approved equivalent plan. The Department may evaluate the effect of power outages where the pump station serves sources such as businesses that would not be able to operate otherwise. The plan shall include one of the following methods showing how the pump station(s) shall be designed to provide continuous operability in the event of a power failure, natural disaster, etc.:

Replace R.61-67.300.C.15.a. to read:

a. An on site standby generator, either permanently installed with capability to operate automatically or skid/trailer mounted types with appropriate connections provided.

Replace R.61-67.300.C.15.b. to read:

b. Connecting the pump station to two (2) separate utility substations, with an automatic switching feature.

Replace R.61-67.300.C.15.d. to read:

d. Provide a method to pump around the pumps and control panel by using a pump and providing a way to pump into the force main downstream of the check valve.

Replace R.61-67.300.D.5. to read:

5. Force mains tying onto manholes shall enter the manhole a vertical distance of not more than two (2) feet above the flow line of the receiving manhole. For connections to existing manholes, special consideration may be granted by the Department to allow the force main to enter the manhole at a higher elevation and be directed down on the inside of the manhole, if justified.

Add new section R.61-67.300.D.7. to read:

7. When force mains serving individual residences (and other similar situations) connect to the primary force main serving the area, a check valve shall be placed on the individual customer's force main at the point where ownership changes in that force main.

Replace R.61-67.300.E. to read:

E. Alternative Collection Systems. These types of systems may be considered to be an appropriate design when conventional sewers are not feasible based upon a site specific review.

Replace R.61-67.300.E.1.a. to read:

a. A public entity shall be responsible for the operation, maintenance, and replacement of all system components beginning with the solids interceptor tanks and pumping systems and vacuum system valve pits. Proposals by private entities shall be evaluated on a case-by-case basis. The Department may evaluate the capability of reliable system operation in its evaluation, including an evaluation of experience with operation and maintenance of wastewater facilities.

Replace R.61-67.300.E.1.c. to read:

c. Applications for construction of alternative sewer collection systems shall include a justification (e.g., topographic restrictions, low population density) of why a conventional gravity system (e.g., eight (8) inch diameter gravity sewers carrying raw wastewater) is not recommended.

Replace R.61-67.300.E.1.e. to read:

e. The Department may waive the design standards utilized for conventional wastewater facilities (e.g., minimum of eight (8) inch diameter sewer mains, manholes), since these types of sewer systems are carrying either effluent from solids interceptor tanks or grinder pump systems. Force mains serving individual sources utilizing a grinder or STEP system may be allowed to be less than the two (2) inches in diameter required under subsection 67.300.D.2, when adequately justified.

Replace R.61-67.300.E.2.c. to read:

c. An individual solids interceptor tank shall be provided to each house, unless an operation and maintenance plan has been approved by the Department, whereby an individual solid interceptor tank may be allowed to serve up to two (2) houses. The minimum size solids interceptor tank shall be one thousand (1,000) gallons, unless otherwise approved by the Department.

Replace R.61-67.300.E.4. to read:

4. Vacuum Sewers.

Add new sections R.61-67.300.E.4.a.-d. to read:

a. General Requirements:

(1) The entire vacuum sewer system, including the individual valve pits, shall be owned, operated and maintained by a single public entity.

(2) The maximum lift in the vacuum sewer system shall be twenty (20) feet.

(3) To minimize the lift, minimize the length of the lines, and to equalize the flow, vacuum stations shall be centrally located with multiple branches, unless justified by the applicant and approved by the Department.

(4) The vacuum sewer system must be designed to remain operational during a loss of vacuum.

(5) For routine and emergency operation and maintenance of a vacuum sewer system, the public entity responsible for the system shall have the right of access, an adequate supply of spare valves, pumps, parts, and service tools.

(6) An operation and maintenance manual is required for each vacuum sewer system.

(7) A minimum scouring velocity of two (2) fps is required in the vacuum sewer lines.

(8) The vacuum sewer system air to liquid ratio shall be a minimum of two (2) parts air to one (1) part liquid.

b. Piping and Valve Requirements:

(1) A minimum pipe diameter of four (4) inches is required for main vacuum sewer lines.

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(2) Vacuum sewer lines must have a minimum slope of 0.20%.

(3) Two (2) forty-five (45) degree bends are required with a short section of piping, instead of a ninety (90) degree bend.

(4) Shut off valves are required on both the suction and discharge piping and at every branch connection and at intervals no greater than one-thousand five-hundred (1,500) feet on main lines. Plug valves or resilient coated wedge gate valves shall be used. No butterfly valves are allowed.

(5) Check valves are required on each pump discharge line.

(6) Isolation valving is required between the vacuum connection tank, vacuum pump(s), influent line and raw sewage discharge pipe.

(7) Gasketed type pipe shall be provided. The pipe and gaskets shall be certified for use under vacuum conditions.

(8) To locate vacuum sewers, magnetic trace tape shall be provided in the top of the trench, or metal toning wires located above the pipe or color coding of the piping.

(9) Division valves shall be used for isolation purposes. The valves shall be installed in a valve pit or other approved apparatus to facilitate proper use of the valve.

(10) Gauge taps shall be provided just downstream of the division valves.

(11) Thrust blocking or restraint joints shall be provided at all changes in alignment greater than or equal to thirty (30) degrees.

(12) The maximum design flows (i.e., peak flows) for vacuum pipe sizing are as follows:

- (a) Four (4) inch pipe shall be 38 GPM.
- (b) Six (6) inch pipe shall be 105 GPM.
- (c) Eight (8) inch pipe shall be 210 GPM.
- (d) Ten (10) inch pipe shall be 375 GPM.

(13) The maximum length of four (4) inch diameter lines, for any one run, is two-thousand (2,000) feet.

c. Vacuum Pit Requirements:

(1) One valve pit may be allowed to serve up to two (2) houses.

(2) Vacuum valve pits shall be designed to prevent entrance of water in the sump and for the vacuum valve to remain fully operational if submerged.

(3) Vacuum valve pits shall be easily accessible so that valving may be easily removed and replaced.

(4) Air vents, four (4) inches in diameter, shall be provided and shall extend a minimum of two (2) feet above the ground level and be protected against freezing and physical damage. The vent shall be located a minimum of twenty (20) feet from the valve pit.

d. Vacuum Pump Station Requirements:

(1) A minimum peaking factor of three (3.0) is required.

(2) The total volume of the vacuum collection tank shall be three (3) times the operating volume plus four-hundred (400) gallons, with a minimum size of one-thousand (1,000) gallons.

(3) Standby power shall be required capable of handling 100% peak loadings. A standby generator is required for all vacuum stations.

(4) A minimum of two (2) pumping units shall be provided for both the vacuum pumps and the wastewater pumps, with each being capable of handling peak flow conditions.

(5) An alarm system with capability to notify staff operators remotely (e.g., telemetry system) shall be provided. The monitoring system shall be provided with continuously charged batteries for twenty-four (24) hour standby operation, in the case of a power outage.

(6) Certification is required from the pump manufacturer stating that the wastewater pumps are suitable for use in a vacuum sewer installation.

Delete section R.61-67.300.E.5.

Replace R.61-67.300.F.2. to read:

2. Each facility shall be fenced, or other means of controlling access by unauthorized persons shall be provided. The type of fencing or other means of controlling access shall be approved by the Department.

Replace R.61-67.300.F.6. to read:

6. For domestic wastewater treatment facilities, equipment shall be provided for flow equalization basins to maintain adequate mixing and aerobic conditions. Equalization or peak flow holding basins located in the collection system or at the treatment facility shall address issues to avoid odors at undesirable levels.

Replace R.61-67.300.F.9. to read:

9. All basins holding wastewater (treated or otherwise) shall be provided with a liner, designed with a permeability rate no greater than 10^{-6} cm/sec, to prevent seepage. The Department may consider alternatives to this requirement for basins holding treated domestic wastewater such that there is not a concern about groundwater standards being exceeded. Consideration can be given to the characteristics of the wastewater and variability of the quality of the treated wastewater. Basins using soils with low permeability rates (e.g., clay) shall require appropriate documentation to demonstrate that the computed soil permeability rates of the liner are sufficiently low to preclude inappropriate seepage. Basins used for mixing (e.g., complete mix aeration basins) shall not be allowed to have earthen liners.

Replace R.61-67.300.F.12. to read:

12. All return flows (e.g., drainage, supernatant, filtrate) generated at the wastewater treatment facility shall be returned to an appropriate location at the headworks of the wastewater treatment facility. The facility shall account for the quantity and quality of these flows.

Replace R.61-67.300.F.15.c. to read:

c. Industrial facilities need to provide back up power as specified above unless the industrial facility can show that their processes stop in the event of a power outage and that enough storage is available until power is restored, so an overflow and/or a discharge other than treated wastewater shall not occur. Design calculations or other information shall be provided for justification.

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Replace R.61-67.300.F.16. to read:

16. Ultimate disposal of wastewater treatment facility residuals, to include sludge and bar screenings shall be identified and approved by the Department before a wastewater treatment facility can be permitted. Disposal shall be consistent with applicable Department regulations.

Replace R.61-67.300.F.17. to read:

17. All wastewater treatment facilities shall be closed out within one hundred eighty (180) days in accordance with applicable regulations, when the facility is closed or the effluent disposal permit is inactivated, terminated or revoked, unless determined by the Department that a greater time is necessary. The closure plan must be approved by the Department as a prerequisite to closure. Conversion of existing wastewater treatment facilities to other basins such as equalization basins or storage basins shall only be considered by the Department for approval when explicitly identified in the applicable 208 Water Quality Management Plan. In such cases, sludge disposal must comply with Regulation 61-9.503 and Regulation 61-9.504.

Replace R.61-67.300.G.1.b.(3) to read:

(3) As a prerequisite for approval of a pump and haul operation, the permanent plan of wastewater handling and disposal shall be approved via the issuance of a construction permit by the Department. The completion of the permanent wastewater disposal system shall be properly bonded, or a financial assurance that the project shall be constructed.

Replace R.61-67.300.G.1.b.(4) to read:

(4) Weekly reports from the party responsible for the holding facility shall be submitted to the Department's local Environmental Quality Control District Office. The Department may specify a form to be used for reporting. Failure to submit these weekly reports or continuing the pump and haul operation beyond the approval date, without prior approval from the Department, may result in possible enforcement action by the Department. If the final disposal of this wastewater is at a wastewater treatment facility that is not owned by the party responsible for the pump and haul operation, a signed statement from the individual responsible for the wastewater treatment facility shall be included in the report. This statement shall give the time, date, and amount of wastewater received.

Replace R.61-67.300.G.1.b.(5) to read:

(5) The holding facility shall be inspected during each day's use by the responsible party, and pumped out as needed.

Replace R.61-67.300.G.1.b.(6)(d) to read:

(d) For private entities, some type of financial assurance (e.g., an escrow account) shall be established for payment to the party hauling and disposing of the wastewater (e.g., contract hauler). The sum to be placed in this escrow account shall be two (2) times the project cost for pumping and hauling the wastewater for thirty (30) days or other approved period of operation. If at any time the account is depleted to one third (α) the original amount and the pump and haul operation is still needed for more than ten (10) days, the owner of the project shall upon notice by the party responsible for this operation, bring the account up to two thirds (β) the original amount within five (5) days.

Replace R.61-67.300.G.1.b.(6)(e) to read:

(e) The holding facility shall be sized to hold at least three (3) days of average daily flow from the project, based on the loadings as stated in 61-67 Appendix A. Consideration can be given to alternative storage capacity requirements for non-residential applications.

Replace R.61-67.300.G.2. in its entirety to read:

2. Industrial Wastewater Pump and Haul Operations. This applies to the storage of non-hazardous industrial and/or domestic wastewater generated by an industrial facility which is then hauled to a receiving facility at a rate of greater than fifty (50) gallons per day or three hundred fifty (350) gallons per week or one thousand five hundred (1,500) gallons per month. One-time/intermittent operations or those on-site operations are exempt from these requirements. On a case-by-case basis, the Department may also consider other exemptions on the requirement to obtain pump and haul approval for certain process wastewaters. Intermittent is defined for this part as less than one shipment of wastewater per month.

a. Pump and haul operations may be allowed in accordance with the following:

(1) Approval by the Department shall be required before a facility can have its wastewater hauled by a tanker truck or other vehicle to the receiving facility or when an approved facility proposes to change its method or location of its wastewater disposal.

(2) All transporting of wastewater shall be in accordance with rules and regulations of the State Department of Transportation and other agencies as applicable.

(3) A back up receiving facility or other contingency plan for the wastewater may be required, as determined by the Department.

(4) Pump and haul operations may not be approved unless the proposed off-site receiving facility has the capability to appropriately manage and treat the waste.

(5) A report containing the following information shall be submitted to the Department for approval:

(a) The name and location of the industrial facility, the current (if applicable) receiving facility, and the proposed receiving facility.

(b) A brief description of the type and amount of waste and how it is generated.

(c) A discussion of the need for the pump and haul operation. Availability of sewer, NPDES permit options, or other options for the wastewater shall be discussed. Proposed pump and haul operations that have a reasonably available sewer (including consideration for sewer and treatment capacity and capability) may be considered not suitable for approval. An engineering estimate of the annualized cost (including treatment, piping, transportation, operations, etc.) of the current and proposed disposal methods, including any possible capital costs, may be required by the Department.

(d) A letter from the owner of the receiving treatment facility agreeing to accept and treat the wastewater.

(e) The corresponding limitations page(s) from the proposed receiving facility's discharge or pretreatment permit.

(f) The capacity of the holding facility, type and amount of wastewater, compatibility of the wastewater with the holding facility material and holding times. Analytical data or other information may also be required as determined by the Department.

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(g) A discussion of how spills and leaks shall be prevented during the transfer of wastewater, including best management practices.

(6) The Department may require the applicant to provide at least one alternate facility to receive the wastewater if there is a question of maintaining adequate capacity at the facility receiving the wastewater. A construction permit for the holding facility may be required by the Department (e.g., permanent holding facilities).

b. Permanent industrial pump and haul operations shall not be allowed where an industry cannot obtain or has been denied sewer service by the entity designated through the 208 planning process as being responsible for providing sewer service to the area where the industry will be or is located.

c. Except as given in subsection 67.300.G.2.d. below, temporary pump and haul operations shall not be allowed when an industry has its local service disconnected because of violations of the local entity's industrial user permit or other violations.

d. When an industry has been cut off from sewer service, no additional wastewaters may be generated by the industry beyond the wastewater that was generated on the day of the cut off and the day after the cut off occurred. In these situations, the Department may approve temporary pump and haul for the wastewaters generated during those two (2) days and any contaminated storm water that will continue to occur up to final closure of the entire industrial facility.

e. When an industry has been cut off from sewer service because of violations of the local entity's industrial user permit or other violations, the industry must cease all manufacturing operations on the site within one (1) day after the cut off date unless a longer time period is allowed in writing by the Department. Additionally, an approvable shut down plan must be submitted to the Department within one (1) week of the sewer service cut off date. The shut down plan must include a wastewater facility closure plan for any wastewater facilities in accordance with SC Regulation 61-82.

Replace R.61-67.300.H.2.b. to read:

b. For existing systems, a reduction may be granted to the wastewater treatment facility when supported with proper documentation. The proper documentation shall be continuously monitored flow at the wastewater treatment facility for several years, including dry and wet years as determined by rainfall data, unless flows are not representative, as determined by the Department. A reduction in the unit contributory loading, if approved, shall be made to the wastewater treatment facility in question, and not a particular project discharging to the wastewater treatment facility. If approved, the reduction in the unit contributory loading shall be approved for all future projects discharging to the wastewater treatment facility (and would be used to revise the current level of remaining capacity). The decision to reduce the loadings shall be made by this Department on an individual basis.

Replace R.61-67.400.B. in its entirety to read:

B. Applicability.

1. These requirements shall not apply to pretreatment facilities or to existing facilities which are not subject to a construction permit.

2. The Department shall determine which reliability classification applies to individual wastewater treatment facilities.

3. The requirements of this regulation shall apply to:

a. All new wastewater treatment facilities.

b. Expanding facilities. (An expansion in discharge capacity makes the entire plant subject to this section.)

4. For modifications which do not increase the capacity of a facility, the requirements of this regulation shall apply to the component(s) being added, modified or upgraded at the wastewater treatment facility.

5. Specific requirements of various classifications may be applied to treatment systems not specifically described in the classification requirements.

6. Facilities such as industrial operations that can reasonably shut down their operations to provide equivalent protection to the receiving waterbody may be exempt from specific requirements of this section if justified by the permittee and approved by the Department.

7. These reliability classification requirements may be waived for wastewater treatment facilities less than five hundred thousand (500,000) GPD, or for non-process industrial wastewater, if determined by the Department that they need not apply, based on site conditions and the absence of shellfish harvesting areas, designated recreational waters, water supply intake areas, and other areas that could be impacted by the subject wastewater treatment facility.

8. Influent and effluent pumping systems are considered part of the wastewater treatment facilities for the purposes of applying reliability classification criteria.

Replace R.61-67.400.D.1. to read:

1. Reliability Classification I requirements provide maximum protection for the waters of the State, by requiring backup components and auxiliary power for those wastewater treatment facilities discharging into waters of the State that may be in environmentally sensitive areas due to the close proximity to, but not limited to, shellfish harvesting areas, and designated recreational waters. Reliability Classification I requirements would apply to those facilities discharging within water supply intake areas. When a discharge is within such an area, the Department may consider the effect downstream lakes may have in providing additional protection within the water supply intake areas and the Department may consider the reduced risk associated with a discharge located downstream of a water supply intake point where the discharge would only affect the intake in certain limited tidal situations.

Replace R.61-67.400.D.2. to read:

2. Wastewater treatment facilities shall have a holding basin or equivalent design feature to augment the storage capacity of the collection and interceptor system (i.e., at the influent of the plant, with consideration given to untreated wastewater storage basins located at other locations). Capacity shall accommodate the twenty four (24) hour average design flow of the wastewater treatment facility. The system shall be designed such that the wastewater retained by the holding basin shall be fully treated prior to discharge. A holding basin that can accommodate the twelve (12) hour average design flow may be considered (in lieu of twenty four (24) hour capacity) by the Department in cases where flow equalization at the head of a treatment facility is incorporated.

Add new Appendix B to read:

**61-67, Appendix B
General Construction Permits**

1. The Department may implement the provisions of this regulation by means of a general construction permit, in accordance with the following:

a. Coverage.

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(1) Area. The general construction permit shall be written to cover a category of construction activities identified in this regulation or disposal practices or facilities described in the permit under subsection 61-67 Appendix B, 1.a.(2)(b) below, except those covered by individual construction permits, within a geographical area. The area shall correspond to existing geographic or political boundaries, such as:

- (a) Designated planning areas under section 208 and 303 of CWA;
- (b) Sewer districts, sewer authorities, municipalities or POTW's;
- (c) City, county, or State political boundaries;
- (d) State highway systems;
- (e) Standard metropolitan statistical areas as defined by the Federal Office of Management and

Budget;

- (f) Urbanized areas as designated by the Federal Bureau of the Census according to criteria in 30 Fed. Reg. 15202 (May 1, 1974), or as subsequently amended;
- (g) Any other appropriate division or combination of boundaries; or
- (h) Watershed boundaries.

(2) Sources. The general construction permit may be written to regulate, within the area described in subsection 61-67 Appendix B, 1.a.(1) above.

- (a) [Reserved]; or

(b) A category of sources or a category of "treatment works treating domestic sewage," if the sources or "treatment works treating domestic sewage" all:

- (i) Involve the same or substantially similar types of operations;
- (ii) Discharge the same types of wastes or engage in the same types of sludge use or disposal practices;
- (iii) Require the same operating conditions, or standards for construction or operation; and
- (iv) In the opinion of the Department are more appropriately controlled under a general construction permit than under individual construction permits.

b. Administration.

(1) In general. General construction permits may be issued, modified, revoked and reissued, or terminated in accordance with applicable requirements of Regulation 61-9.124.

(2) General construction permits shall specify the deadlines for submitting notices of intent to be covered and the date(s) when an applicant is authorized to begin construction under the permit.

(3) General construction permits shall specify whether an activity covered by this regulation where the applicant has submitted a complete and timely Notice of Intent (NOI) to be covered in accordance with the general construction permit and that is eligible for coverage under the permit, is authorized to begin construction in accordance with the permit. This could be either upon receipt of the NOI by the Department, after a waiting period specified in the general construction permit, on a date specified in the general construction permit, or upon receipt of notification of inclusion by the Department. Coverage may be terminated or revoked in accordance with subsection 61-67 Appendix B, 1.b.(6) below.

(4) Applicants may, at the discretion of the Department, be authorized to begin construction under a general construction permit without submitting a NOI where the Department finds that a NOI requirement is inappropriate. The Department shall provide in the public notice of the general construction permit the reasons for not requiring a NOI.

(5) The Department may notify an applicant that it is covered by a general construction permit, even if the applicant has not submitted a NOI to be covered. An applicant so notified may request an individual construction permit under subsection 61-67 Appendix B, 1.b.(6)(c) below.

(6) Requiring an individual permit.

(a) The Department may require any person who otherwise qualifies for or has been lawfully issued a general construction permit to apply for and obtain an individual construction permit. An applicant or any other interested person may petition the Department to take action under this paragraph. The petition shall indicate specific reasons why an individual construction permit is requested and the interest in or relationship of the petitioner to the applicant. Cases where an individual construction permit may be required include, but are not limited to, the following:

- (i) The applicant is not in compliance with the conditions of the general construction permit;
- (ii) A change has occurred in the availability of demonstrated technology or practices for the control or abatement of pollutants applicable to the treatment works treating domestic sewage;
- (iii) A Water Quality Management plan containing requirements applicable to such construction permits is approved;
- (iv) Circumstances have changed since the time of the request to be covered so that the construction activity is no longer appropriately controlled under the general construction permit, or either a temporary or permanent reduction or elimination of the authorized activity is necessary; and
- (v) The applicant is a significant contributor of pollutants. In making this determination, the Department may consider the following factors:
 - (aa) The location of the construction activity with respect to waters of the State;
 - (bb) The size of the construction activity;
 - (cc) The quantity and nature of the pollutants; and
 - (dd) Other relevant factors.

(b) [Reserved].

(c) Any owner or operator authorized by a general construction permit may request to be excluded from the coverage of the general construction permit by applying for an individual construction permit. The owner or operator shall submit an application under this regulation, with reasons supporting the request, to the Department no later than ninety (90) days after the publication of the general construction permit in the State Register. The request shall be processed in accordance with Regulation 61-9.124. The request shall be granted by issuing of an individual construction permit if the reasons cited by the owner or operator are adequate to support the request.

(d) When an individual construction permit is issued to an owner or operator otherwise subject to a general construction permit, the applicability of the general construction permit to the individual construction permit is automatically terminated on the effective date of the individual construction permit.

(e) A construction activity excluded from a general construction permit solely because it already has an individual construction permit may request that the individual construction permit be revoked, and that it be covered by the general construction permit. If the individual construction permit is revoked by the Department, the general construction permit shall apply to the construction activity.

c. Submittal and Signatory Requirements.

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(1) A NOI shall be on forms as may be prescribed and furnished from time to time by the Department. An NOI shall be accompanied by all pertinent information as the Department may require in order to establish requirements in accordance with this regulation, including, but not limited to, complete engineering reports, schedule of progress, plans, specifications, maps, measurements, quantitative and qualitative determinations, records, and all related materials.

(2) Engineering reports, plans, and specifications submitted to the Department shall be signed by a Professional Engineer registered in the State.

(3) Material submitted shall be complete and accurate.

(4) Any NOI form submitted to the Department shall be signed in accordance with this regulation.

(5) All other reports or requests for information required by the Department shall be signed by a person designated in this regulation or a duly authorized representative of such person, if:

(a) The representative so authorized is responsible for the overall operation of the facility served by the construction activity;

(b) The authorization is made in writing by the person designated; and

(c) The written authorization is submitted to the Department.

(6) Any changes in the written authorization submitted to the Department which occur after the issuance of a permit shall be reported to the Department by submitting a copy of a new written authorization that meets the requirements of subsection 61-67 Appendix B, 1.c.(5) above.

(7) Any person signing any document under subsection 61-67 Appendix B, 1.c. above shall make the following certification: "I certify under penalty of law that I have personally examined and am familiar with the information submitted in the attached document; and based on my inquiry of those individuals immediately responsible for obtaining the information, I believe the submitted information is true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment."

d. Other Requirements.

(1) Notice and Public Participation. Public notice and participation requirements shall be in accordance with Regulation 61-9.

(2) Terms and Conditions of Permits. General construction permits issued shall be subject to the terms and conditions contained in this regulation.

(3) Duration, Continuation, and Transferability of Permits. General construction permits shall be issued for a fixed term, as determined by the Department.

Fiscal Impact Statement:

It is anticipated that these amendments will not create any additional cost to the State. See Statement of Need and Reasonableness below:

Statement of Need and Reasonableness:

The statement of need and reasonableness was determined by staff analysis pursuant to S.C. Code Section 1-23-115(C)(1)-(3) and (9)-(11).

DESCRIPTION OF REGULATION: R.61-67, Standards for Wastewater Facility Construction

Purpose: The purpose of this amendment is to allow the use of vacuum sewer systems and establish additional criteria for alternative collection system use. In addition, this amendment will address the consistency of administrative and technical review issues in comparison with the drinking water standards (R.61-58). This amendment also establishes changes in pump and haul criteria, service connection and water supply intake definitions, criteria for sewer design related to infiltration and inflow, rules for application submittal requirements and available capacity at treatment plant determinations, as well as addressing other minor changes and clarification as needed for overall improvement of the regulation.

Legal Authority: The Standards for Wastewater Facility Construction Regulations are authorized by Sections 48-1-50 and 48-1-110, S.C. Code of Laws (1987), as amended.

Plan for Implementation: These amendments will make changes to and be incorporated into R.61-67 upon approval of the General Assembly and publication in the State Register. These amendments will be implemented in the same manner in which the existing regulations are implemented.

DETERMINATION OF NEED AND REASONABLENESS OF THE REGULATION BASED ON ALL FACTORS HEREIN AND EXPECTED BENEFIT:

DHEC has identified areas that need to be revised to bring clarity and to update the regulation to match other regulatory programs. In addition, revision is necessary for several areas in the regulation to provide for clarification of the intent of the regulation on specific points, including consistency of the administrative and technical review issues in comparison with the drinking water standards (R.61-58). The regulation itself is needed in order to ensure that all wastewater collection, transmission, and treatment facilities are properly designed, constructed, operated and maintained in order to protect public health and safety and the environment of the State.

This amendment is reasonable because it will clarify the existing regulation, update it based on current technologies and issues, and incorporate into regulation sound engineering practices utilized by the Department for the design of new wastewater collection, transmission, and treatment facilities. This amendment defines a set of common design standards to be utilized for new wastewater facilities approved or permitted by the Department.

The benefit is that these amendments will continue to define a set of common design standards to be utilized for new wastewater facilities approved or permitted by the Department while allowing flexibility for designs in unique circumstances. Properly designed and maintained wastewater facilities will protect public health and safety and the environment of the State. It is anticipated that these amendments will not create any additional cost to the regulated community because design standards required under these amendments will be consistent with current engineering practices utilized by the Department for new wastewater collection, transmission, and treatment facilities.

DETERMINATION OF COSTS AND BENEFITS:

It is anticipated that these amendments will not create any additional cost to the State. The cost should be offset by the funds received with construction applications received for wastewater facilities. Regulation 61-30, Environmental Protection Fees, Promulgated Pursuant to S.C. Code Section 48-2-10 et seq., authorizes the Department to collect fees for certain wastewater construction permits. Therefore, no additional state funding is being requested; existing staff and resources will be utilized to enforce these amendments to the regulations. It is anticipated that these amendments will not create any additional cost to the regulated community because the design standards required under these amendments will be consistent with current guidelines utilized by the Department for new wastewater collection, transmission, and treatment facilities.

UNCERTAINTIES OF ESTIMATES: None

EFFECT ON ENVIRONMENT AND PUBLIC HEALTH:

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Implementation of this amendment would not compromise the protection of the environment or the health and safety of citizens. The effect should be beneficial because the amendment will ensure properly designed and maintained wastewater facilities which will protect public health and safety and the environment of the State.

DETRIMENTAL EFFECT ON THE ENVIRONMENT AND PUBLIC HEALTH IF THE REGULATION IS NOT IMPLEMENTED:

Failure of the Department to have the flexibility to enforce these amendments may result in improperly designed and maintained wastewater facilities and inappropriately restrict the use of certain technologies. The environmental consequence of improperly designed and maintained wastewater facilities would be that these wastewater facilities could fail, thereby leading to contamination of ground and surface waters, soils, and air, and would likely have a short term and a long term detrimental impact on the health of the citizens of South Carolina.

Document No. 2661

DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL CHAPTER 61

Statutory Authority: 1976 Code Section 44-55-10 et seq.

R.61-58 State Primary Drinking Water Regulations

Synopsis:

This amendment of the State Primary Drinking Water Regulations adds requirements for federally defined public water systems to have certified distribution system operators responsible for the operation and maintenance of their distribution systems. In addition, this amendment addresses design and operation issues associated with pumping drinking water into aquifers for storage and recovery. The Department also clarifies some existing design, operation, and maintenance requirements, eliminates requirements which no longer apply and addresses design and operation issues for new drinking water technologies, and/or updates design criteria to reflect current industry standards. See Discussion of Revisions below and Statement of Need and Reasonableness herein.

Discussion of Revisions

<u>SECTION</u>	<u>CHANGE</u>
R.61-58.A	Revised to include new regulations which have been added.
R.61-58.B	Four (4) new definitions are added in alphabetical/numerical order. One definition that is no longer used is deleted. The definition of "Comprehensive Performance Evaluation is revised to correct a reference.
R.61-58.1.B(1)(2)(g)	Revised to give the Department more flexibility when issuing permits.
R.61-58.1.B(9)	Revised to extend the length of time that a permit is valid to three (3) years.
R.61-58.1.B(11)(b) &(c)	Revised to clarify when a permit is not required.
R.61-58.1.B(14)	Added to clarify that a permit is not required for a dedicated fire line.
R.61-58.1.G(4)	Revised to reference definition of fire flow.

R.61-58.1.G(14)	Revised to clarify that flushing flow must be used for design purposes if it is more conservative than using fire flow, or if fire flow is not provided.
R.61-58.1.K(1)(b)	Revised to specify that bacteriological testing conducted on new facilities must be conducted within thirty days of the request for final approval.
R.61-58.1.O(2)	Deleted requirement for owners of public water systems to submit an application for an operating permit. Existing items (3) through (14) are to be renumber to (2) through (13).
R.61-58.2.B(1)(b)	Revised to clarify that stand-by and emergency wells are not used to calculate system capacity.
R.61-58.2.B(3)(a)(i)	Revised to update requirement concerning Wellhead Protection Area Inventories.
R.61-58.2.B(6)(a)	Revised to reflect new construction techniques which would allow thermoplastic casing on Type I wells in some instances.
R.61-58.2.B(12)(c)	Revised to add language to require that precautions are taken to protect flora and fauna when discharging water during well development.
R.61-58.2.D(2)(c) Introductory paragraph	Revised to allow the use of chlorine gas in inhabited areas if proper safety precautions are taken.
R.61-58.2.D(2)(c)(viii)	Revised to allow equivalent alternatives to chlorine gas weighing scales.
R.61-58.2.D(2)(g) Introductory paragraph	Revised to allow gas-solid chlorine dioxide generation and added the word “applicable” for clarity.
R.61-58.2.D(2)(g)(i)	Revised to delete CT credit requirements and eliminate subitem numbering. Text of existing subitem (B) is to be included under main heading.
R.61-58.2.D(2)(g)(ii)(B)	Revised to clarify that a second chlorine dioxide is not necessary if chlorine dioxide is not used as a primary disinfectant.
R.61-58.2.D(2)(g)(iii)(A)	Revised to delete requirement that piping for chlorine dioxide generators be replaced each 3 to 5 years.
R.61-58.2.D(3)	Revised to delete unnecessary language.
R.61-58.2.D(7)(c)(v)	Added to require fail-safe switches on Fluoride feed system to prevent overfeed.
R.61-58.2.D(10) Introductory paragraph	Revised to allow the installation of membrane treatment without pilot studies in some instances.
R.61-58.2.D(10)(a)(i)	Revised to clarify that a pilot study may not be required.
R.61-58.2.D(10)(a)(iii) Introductory paragraph	Revised to reflect industry practice of certifying membrane material instead of the membrane itself.

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- R.61-58.2.D(10)(a)(iii)(A) Revised to reflect industry practice of certifying membrane material instead of the membrane itself.
- R.61-58.2.D(10)(b)(iv) Introductory paragraph Revised to reflect industry practice of certifying membrane material instead of the membrane itself.
- R.61-58.2.D(10)(b)(iv)(A) Revised to reflect industry practice of certifying membrane material instead of the membrane itself.
- R.61-58.3.B(1) Revised to clarify requirements for surface water development.
- R.61-58.3.B(2)(e) Revised to include reference to recently adopted regulation.
- R.61-58.3.B(6)(c)(i) Revised to clarify requirements for source pumping capacity.
- R.61-58.3.C(5)(c) Revised to add requirements for an additional sample tap on the combined filter effluent.
- R.61-58.3.D(2)(c)(i) Revised to allow an alternate basis for design of a sedimentation basin other than detention time.
- R.61-58.3.D(4)(c) Revised to clarify that application rate applies only to tube settlers.
- R.61-58.3.D(4)(d) Added to specify loading rates for plate settlers which reflect current practices. Renumbered existing subitem (d) to subitem (e).
- R.61-58.3.D(5)(a)(ii) Revised to include requirement for design considerations to minimize hydraulic surge through the filters.
- R.61-58.3.D(5)(a)(v)(A) Revised for clarity.
- R.61-58.3.D(5)(a)(x)(F) Revised to reflect new requirements for turbidity measurement recording.
- R.61-58.3.D(5)(a)(xi)(D) Revised for clarity.
- R.61-58.3.D(5)(b) Revised to clarify requirements for high rate filtration.
- R.61-58.3.D(5)(d) Revised to disallow diatomaceous earth filtration as primary treatment of surface water and delete the associated design criteria.
- R.61-58.3.D(6)(c) Introductory paragraph Revised to allow the use of chlorine gas in inhabited areas if proper safety precautions are taken.
- R.61-58.3.D(6)(c)(viii) Revised to allow equivalent alternatives to chlorine gas weighing scales.
- R.61-58.3.D(6)(g) Introductory paragraph Revised to allow gas-solid chlorine dioxide generation and added the word “applicable” for clarity.
- R.61-58.3.D(6)(g)(i) Revised to delete CT credit requirements and eliminate subitem numbering. Text of existing subitem (B) is to be included under main heading.
- R.61-58.3.D(6)(g)(ii)(B) Revised to clarify that a second chlorine dioxide is not necessary if chlorine

	dioxide is not used as a primary disinfectant.
R.61-58.2.D(2)(g)(iii)(A)	Revised to delete requirement that piping for chlorine dioxide generators be replaced each 3 to 5 years.
R.61-58.3.D(8)(a)	Revised to correct reference.
R.61-58.3.D(8)(d)(v)	Added to require fail-safe switches on Fluoride feed system to prevent overfeed.
R.61-58.3.D(11)	Revised to add general requirements for membrane use with surface water and delete specific language for design of reverse osmosis systems.
R.61-58.3.E(2)(g)(ii)	Revised to correct reference
R.61-58.3.F Introductory paragraph	Revised to clarify requirements for waste handling facility sizing.
R.61-58.4.D(4)(a)	Revised to clarify that basis of design should include flushing flows.
R.61-58.4.D(7)(a)	Revised to clarify requirements for blow-offs.
R.61-58.4.D(7)(d)	Revised to clarify that head loss calculation must include consideration for fire flow.
R.61-58.4.D(9)(b)	Revised to clarify requirements for post hydrants.
R.61-58.4.D(11)(h)	Revised to give an example of intended design standard.
R.61-58.4.D(13)(b)(iv)	Added to require that blow-offs be directed away from water bodies.
R.61-58.4.G	Added to include design standards for Aquifer Storage and Recovery (ASR) wells.
R.61-58.7.B(2)	Revised to clarify requirements for Standard Operating Procedures.
R.61-58.7.B(11)(d)	Added requirement for systems to notify their service population and health practices if they decide to cease fluoridation.
R.61-58.7.B(19)(c)	Revised to add requirement for a combined filter water sample tap.
R.61-58.7.C(1)	Revised to clarify operator certification requirements for surface water treatment plants.
R.61-58.7.C(4)	Revised to clarify requirements that systems not exceed their permitted filtration rate and that they minimize hydraulic surges through filter.
R.61-58.7.C(8)(c)	Revised for clarity.
R.61-58.7.C(12)	Revised to specify time frame for submitting plans and specifications.
R.61-58.7.D(1)	Revised to make requirements for stand-by wells consistent with Department guidelines.

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- R.61-58.7.D(10) Revised to clarify when a well must be abandoned.
- R.61-58.7.D(14) Added to specify requirements for stand-by wells that are consistent with Department guidelines.
- R.61-58.7.D(15) Added to specify requirements for emergency wells that are consistent with Department guidelines.
- R.61-58.7.E(1) Revised to add requirements for certified distribution system operators and clarify meaning of distribution treatment plant.
- R.61-58.7.E(2) Revised to add requirement for inspection of atmospheric tank vent screens and hatches.
- R.61-58.7.E(11) Revised to clarify minimum elements of a leak detection plan.
- R.61-58.7.E(14) Revised to clarify requirement for storage interior paint coating to meet ANSI/NSF Standard 61.
- R.61-58.7.E(15) Added to require that storage tanks taken out of service must be disinfected and sampled before being put back into service.
- R.61-58.7.E(16) Added to require that the Department be notified if divers enter finished water storage tanks for inspection or cleaning.
- R.61-58.7.F(8)
Introductory paragraph Revised to add requirement that pressure vacuum breakers be tested.
- R.61-58.7.F(9)(a) Revised to include additional requirements for tester recertification.
- R.61-58.7.F(10) Added to require that pressure vacuum breakers be installed above downstream piping.
- R.61-58.7.G(1) Revised to clarify certified operator requirements for drinking water vending machines.
- R.61-58.7.H(2) Revised to clarify certified operator requirements for drinking water bottling plants.
- R.61-58.7.I Added to specify operation and maintenance standard for Aquifer Storage and Recovery wells.

Instructions: Amend R.61-58 pursuant to each individual instruction provided with the text of each amendment below.

Text of Amendment:

Revise 61-58.A, General, to read:

A.General

Regulations 61-58 through 61-58.13 are promulgated pursuant to S.C. Code Sections 44-55-10 et seq. and are collectively known as the State Primary Drinking Water Regulations. The Department finds the standards and procedures prescribed are necessary to maintain reasonable standards of purity of the drinking water of the State consistent with the public health, safety, and welfare of its citizens.

Revise 61-58.B., Definitions, to add four new definitions in alpha-numeric order to read:

“Aquifer Storage and Recovery (ASR) Well” means a water well which allows potable water to be injected into a subsurface aquifer to be recovered by pumping at a later date.

“Dedicated Fire Line” means a water line connected to a public water system which is designed and used solely for a fire protection system. Such lines must be provided with an acceptable and approved backflow prevention device and must not connect at any point downstream of that device with water lines or fixtures that are used for potable water.

“Emergency Well” means a well that is operable and connected to the distribution system, but is not routinely operated or sampled. Such wells are only available to be used during emergency situations and only in conjunction with a boil water advisory.

“Stand-by Well” means a well that is not routinely used, but which can be immediately placed into operation if needed. Such wells are routinely exercised and sampled by the water system to ensure operability and water quality.

Revise 61-58.B, Definitions, to revise one existing definitions to read:

“Comprehensive Performance Evaluation” (CPE) is a thorough review and analysis of a treatment plant’s performance-based capabilities and associated administrative, operation and maintenance practices. It is conducted to identify factors that may be adversely impacting a plant’s capability to achieve compliance and emphasizes approaches that can be implemented without significant capital improvements. For purposes of compliance with R.61-58.10.H, the comprehensive performance evaluation must consist of at least the following components: assessment of plant performance; evaluation of major unit processes; identification and prioritization of performance limiting factors; assessment of the applicability of comprehensive technical assistance; and preparation of a CPE report.

Revise R.61-58.B, Definitions Delete definition of “Dry Line”

R.61-58.B(48) “Dry Line” means a water line project not connected to a source at the time application is made for the permit to construct.

Revise 61-58.1.B(2)(g) to read:

(g) if the owner of the project is different from the entity which has legal authority to serve or grant franchises for the area in which the project is located, the application shall include a letter from that legal entity stating that the proposed project is consistent with the water supply service plan for the area. This letter is not required if the project will not supply water to any person within the service or franchise area, other than to the legal authority.

Revise 61-58.1.B(9) to read:

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(9) Construction permits are valid for three (3) years, from the date of issue, at which time the project must be completed or an extension must be applied for in writing. The extension request must be made by the professional engineer of record for the project and, if applicable, shall include current flow test data. Projects for which the permit to construct has been expired for more than one (1) year are considered new projects and must include a new application as required in paragraph 2 of this section.

Revise 61-58.1.B(11)(b)&(c) to read:

(b) the customer consists of only a single house, single mobile home, ~~or~~ single building or multiple-building complex under single ownership with no rental units (e.g., schools or industry);

(c) the customer is not a shopping mall, multiple-building complex where there will be several owners or renters (e.g., apartment complex, condominium complex, mobile home park, campground, industrial park, or business park) or marina; and,

Add 61-58.1.B(14) to read:

(14) A dedicated fire line protected by an approved backflow prevention device located at the point of connection to the public water system's distribution line will not require a permit to construct.

Revise 61-58.1.G(4) to read:

(4) fire flow requirements (refer to Section R.61-58.B for the definition of fire flow);

Revise 61-58.1.G(14) to read:

(14) System pressures at maximum instantaneous demand (not less than twenty-five (25) pounds per square inch); or fire flow in addition to peak hourly flow or flushing flow in addition to peak hourly flow (not less than twenty (20) pounds per square inch), whichever is the worst case.

Revise 61-58.1.K(1)(b) to read:

(b) Results of bacteriological analyses following disinfection, including chlorine residuals at the time of collection, which have been conducted within thirty (30) days of the request for final approval. These analyses shall be performed by a certified laboratory.

Delete 61-58.1.O(2) and renumber remaining items:

(2) For existing systems, the owner of a system shall complete and submit an application form for an operating permit within ninety (90) days of receipt of written request from the Department. The Department will provide the owner with a copy of the application form with the written request.

Revise 61-58.2.B(1)(b) to read:

(b) The total developed groundwater source capacity shall equal or exceed the design maximum day demand without pumping more than sixteen (16) hours a day. With the largest producing well out of service, the capacity of the remaining well(s) pumping twenty-four (24) hours a day shall equal or exceed the design maximum daily demand, except those systems requiring only one well. The capacity from an additional source (Surface Water Plant or Master Meter) will be included in the quantity analysis. However, emergency and stand-by wells will not be included in the quantity analysis.

Revise 61-58.2.B(3)(a)(i) to read:

(i) The location of the public well shall be at least one hundred (100) feet from all potential pollution sources except where the professional engineer or professional geologist can justify a lesser distance based in part on hydrogeological conditions or special well construction techniques or where the pollution source is designed in such a manner as to prevent the release of contaminants to the environment. A greater pollution free radius shall be required where water from water table aquifers will be used. A Wellhead Protection Area Inventory must be performed based on the location and expected yield of the proposed well.

Revise 61-58.2.B(6)(a) to read:

(a) Casing selection - New casing which bears mill markings and which conform to standard specifications (ASTM A-53) for water well pipe shall be used. Thermoplastic casing and couplings which meet standard specifications (ASTM F-480) and which are approved by the National Sanitation Foundation may be used for Type II, III and IV wells which will not exceed three hundred (300) feet in depth. Unless specifically approved by the Department, thermoplastic casing shall not be used for Type I wells. No material containing more than eight (8) percent lead by weight shall be used in the completed well.

Revise 61-58.2.B(12)(c) to read:

(c) Location of discharge - Water shall be discharged so that it will not affect test results and so that no damage by flooding or erosion is caused to the chosen drainage structure or disposal site. The location of the discharge point shall be shown on the site plan and precautions must be taken to ensure the protection of flora and fauna.

Revise 61-58.2.D(2)(c) introductory; subitems (i) through (vii) remain the same:

(c) Chlorine gas - Consideration shall be given to the location of gas chlorine facilities and the safety of the public in the surrounding area. The Department reserves the right to deny approval of chlorine gas on the basis of hazards to the public health. Consideration may be given for facilities that propose the use of chlorine gas in inhabited areas when the use of safety devices which will not allow the release of chlorine gas (e.g. chlorine scrubbers) are provided. Only vacuum gas chlorinator systems will be approved.

Revise 61-58.2.D(2)(c)(viii); subitems (ix) through (xiii) remains the same:

(viii) Weighing scales shall be provided for weighing cylinders, at all installations utilizing chlorine gas unless provisions for automatic switchover of cylinders and an acceptable alternate means to determine daily dosage are provided.

Revise 61-58.2.D(2)(g) through D(2)(g)(iii)(A) only; subitems 61-58.D(2)(g)(iii)(B) and (C) remain the same:

(g) Chlorine Dioxide - Chlorine dioxide is a suitable disinfectant for groundwater. Chlorine dioxide shall be generated on site. The unit shall be flow paced and not have a holding tank for the chlorine dioxide solution generated. All applicable EPA disinfectant by-product rules shall be observed.

(i) Sizing of the chlorine dioxide generator - Chlorine dioxide demand studies shall be conducted to determine estimated feed rates and points of feed.

(ii) Building Design -

(A) Chlorine dioxide generators shall be located in a room separate from chlorine cylinders.

(B) Number of Units: Where chlorine dioxide is used as the primary disinfectant, at least two (2) flow pacing chlorine dioxide generators shall be provided. The facility shall be adequately sized to supply the

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maximum treatment capacity with any one generator out of service. If chlorine dioxide is not used as a primary disinfectant (i.e. an oxidant only), a second generator is not required.

(iii) Piping Materials -

(A) All piping from the chlorine dioxide generator shall be schedule 80 PVC

Revise 61-58.2.D(3) to read:

(3) Softening - The softening process selected shall be based upon the mineral qualities of the raw water and the desired finished water quality in conjunction with requirements for the disposal of brine waste, the plant location. Applicability of the process chosen shall be demonstrated. Ion exchange units used for softening shall be designed in accordance with R.61-58.2.D(4).

Add 61-58.2.D(7)(c)(v) to read:

(v) All fluoride feed systems shall be equipped with a fail-safe system to prevent the continued feed of fluoride at times when there is no flow of water through the fluoride feed point.

Revise 61-58.2.D(10) introductory only to read:

(10) Membrane Technology - All applications for projects involving membrane technology must be preceded by an engineering report and may require a pilot study.

Revise 61-58.2.D(10)(a)(i) introductory; (10)(a)(i)(A) through (i)(E) remain the same:

(i) Pilot Study - The pilot study, where required, must determine or address the following items:

Revise 61-58.2.D(10)(a)(iii), introductory only, to read:

(iii) Reverse Osmosis Membrane Material -

Revise 61-58.2.D(10)(a)(iii)(A) to read:

(A) Membrane material used in public water systems shall be certified as meeting the specification of the American National Standards Institute/National Sanitation Foundation Standard 61, Drinking Water System Components - Health Effects. The certifying party shall be accredited by the American National Standards Institute.

Revise 61-58.2.D(10)(b)(iv), introductory only, to read:

(iv) Electrodialysis Reversal Membrane Material -

Revise 61-58.2.D(10)(b)(iv)(A) to read:

(A) Membrane material used in public water systems shall be certified as meeting the specification of the American National Standard Institute/National Sanitation Foundation Standard 61, Drinking Water System Components - Health Effects. The certifying party shall be accredited by the American National Standards Institute.

Revise 61-58.3.B(1) introductory; (a) through (c) remain the same:

(1) Quantity - Where the proposed source is to be the only source of water for the system, the quantity of water at the source shall:

Revise 61-58.3.B(2)(e) to read:

(e) assessing the capability of the proposed treatment process to comply with the drinking water standards set forth in the Act and under R.61-58.5, R.61-58.10, and R.61-58.13.

Revise 61-58.3.B(6)(c)(i) introductory; subitems 61-58.3.B(6)(c)(i)(A) through (D) remain the same:

(i) At least two (2) pumping units shall be provided. The pumping facility shall be sized adequately to supply the full plant capacity with any pump out of service. The pumping units shall:

Revise 61-58.3.C(5)(c) to read:

(c) effluent from each filter and the combined filter effluent prior to any post chemical addition; and,

Revise 61-58.3.D(2)(c)(i) to read:

(i) Detention time - Sedimentation basin design considerations and calculations shall include basin overflow rate, weir loading rate, flow through velocity and theoretical detention time. For conventional sedimentation basins with detention times of less than four (4) hours, an acceptable alternate basis for design must be provided and must be approved by the Department.

Revise 61-58.3.D(4)(c); add 61-58.3.D(4)(d); and renumber existing 61-58.3.D(4)(d) to (e), to read:

(c) Application rate for tubes - A maximum rate of two (2) gallons per minute per square foot of cross-sectional area is allowed for tube settlers, unless pilot or full scale demonstration testing indicate that higher rates do not adversely affect water quality.

(d) Application rates for plates - A maximum plate loading rate of five tenths (0.5) gallons per minute per square foot, based on eighty (80) percent of the projected horizontal plate area is allowed, unless pilot or full scale demonstration testing indicate that higher rates do not adversely affect water quality.

(e) Flushing lines - Flushing lines shall be provided to facilitate maintenance, and shall be properly protected against backflow and back siphonage.

Revise 61-58.3.D(5)(a)(ii) to read:

(ii) Number - At least two (2) units shall be provided. Provisions shall be made to assure continuity of service with a filter unit temporarily removed from operation. The plant shall be designed so that the design filtration rate is not exceeded during backwash operations. In addition, provisions shall be made so that hydraulic surges through the filters are minimized during flow rate changes and when filters are removed from service for backwashing.

Revise 61-58.3.D(5)(a)(v)(A) to read:

(A) the bottom elevation of the trough must be above the maximum level of expanded media during washing;

Revise 61-58.3.D(5)(a)(x)(F) to read:

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(F) continuous turbidity monitoring equipment for raw and settled water. Each filter shall be equipped with a continuous, on-line turbidimeter. The filter effluent turbidimeters shall be nephelometric type and equipped with alarms to be set to enunciate at five tenths (0.50) nephelometric turbidity units. Continuous recorders or computer data which record at no greater than fifteen (15) minute intervals are required for each unit.

Revise 61-58.3.D(5)(a)(xi)(D) to read:

(D) Capacity for at least twenty (20) minute wash of one filter is required at the design rate of wash;

Revise 61-58.3.D(5)(b) to read:

(b) High Rate Gravity Filters - No rates above four (4) gallons per minute per square foot will be considered without full scale pilot tests of at least twelve (12) month duration. High rate approval will not be considered for a plant with a flashy raw water source unless adequate off-stream storage is provided. High rate approval for existing plants requires an engineering evaluation and will be approved only where a sufficient number of experienced and qualified operators are employed. Where high rate approval will not allow a plant to maintain minimum unit process detention times specified in R.61-58.3.D(2), evaluations of those unit processes must be included in the pilot test and high rate engineering evaluation. The design of high rate gravity filters shall be in accordance with all applicable requirements of R.61-58.3.D(5).

Revise 61-58.3.D(5)(d) to read:

(d) Diatomaceous earth filtration will not be allowed as primary filtration on surface waters.

Revise 61-58.3.D(6)(c) introductory ; subitems D(c)(i) through (vii), (ix) through (xi) remain the same:

(c) Chlorine gas - Consideration shall be given to the location of gas chlorine facilities and the safety of the public in the surrounding area. . Consideration may be given for facilities that propose the use of chlorine gas in inhabited areas when the use of safety devices which will not allow the release of chlorine gas (e.g. chlorine scrubbers) are provided. Only vacuum gas chlorinator systems will be approved.

Revise 61-58.D(6)(c)(viii) to read:

(viii) Weighing scales shall be provided for weighing cylinders, at all installations utilizing chlorine gas unless provisions for automatic switchover of cylinders and an acceptable alternate means to determine daily dosage are provided.

Revise 61-58.3.D(6)(g) through 61-58.3.D(g)(iii)(A) only; subitems 61-58.3.D(g)(iii)(B) and (C) remain the same:

(g) Chlorine Dioxide - Chlorine Dioxide is a suitable disinfectant for surface water. Chlorine dioxide shall be generated on site. The unit shall be flow paced and not have a holding tank for the chlorine dioxide solution generated. All applicable EPA disinfectant by-product rules shall be observed.

(i) Sizing of the chlorine dioxide generator - Chlorine dioxide demand studies shall be conducted to determine estimated feed rates and points of feed.

(ii) Building Design -

(A) Chlorine dioxide generators shall be located in a room separate from chlorine cylinders.

(B) Number of Units: Where chlorine dioxide is used as the primary disinfectant, at least two (2) flow pacing chlorine dioxide generators shall be provided. The facility shall be adequately sized to supply the maximum treatment capacity with any one generator out of service. If chlorine dioxide is not used as a primary disinfectant (i.e. an oxidant only), a second generator is not required.

(iii) Piping Materials -

(A) All piping from the chlorine dioxide generator shall be schedule 80 PVC.

Revise 61-58.3.D(8)(a) to read:

(a) Fluoride Compound Storage - Dry chemical storage shall be designed in accordance with R.61-58.3.E(2)(e). Storage units for hydrofluorosilic acid shall be isolated from operating areas and shall be vented to the atmosphere at a point outside any building.

Add 61-58.3.D(8)(d)(v) to read:

(v) All fluoride feed systems shall be equipped with a fail-safe system to prevent the continued feed of fluoride at times when there is no flow of water through the fluoride feed point.

Revise 61-58.3.D(11) introductory through 61-58.3.D(11)(a); 61-58.3.D(11)(b) remains the same:

(11) Membrane Technology - All applications for projects involving membrane technology must be preceded by an engineering report and may require a pilot study. The engineering report must meet the requirements of R.61-58.1.C.

(a) General Requirements

(i) Membrane material - No membrane material shall be used in a public water system unless the material or product has been tested and certified as meeting the specifications of the American National Standard Institute/National Sanitation Foundation Standard 61, Drinking Water System Components - Health Effects. This requirement shall be met under testing conducted by a third party product certification organization accredited for this purpose by the American National Standards Institute.

(ii) Loading rates must be determined by pilot testing and/or manufacturers recommendations.

(iii) Scale Inhibitors and Cleaning Solutions - Where required, scale inhibitors and cleaning solutions must meet the requirements of chemical additives R.61-58.3.E(3).

Revise 61-58.3.E(2)(g)(ii) to read:

(ii) Day tanks shall meet all the requirements of R.61-58.3.E(2)(f).

Revise 61-58.3.F introductory to read:

F. Waste Handling and Disposal.

Waste handling and disposal practices shall meet all applicable rules and regulations of the Department. Provisions must be made for proper disposal of water treatment plant waste such as sanitary, laboratory, clarification sludge, softening sludge, iron sludge, filter backwash water, filter to waste, and brine waste. In locating waste disposal facilities, due consideration shall be given to preventing potential contamination of the water supply. For projects involving a surface water discharge of water treatment residuals or waste water, a National Pollutant Discharge Elimination System (NPDES) permit must be obtained from the Department. For

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projects involving land application of water treatment residuals or waste water, a No Discharge (ND) permit must be obtained from the Department.

Revise 61-58.4.D(4)(a) to read:

(a) Pressure - The minimum pressure in all public water mains under conditions of maximum instantaneous demand shall be twenty-five (25) pounds per square inch at every customer's tap. Twenty (20) pounds per square inch will be acceptable at any tap when fire flows or flushing flows are provided in excess of maximum peak hourly flow.

Revise 61-58.4.D(7)(a)(i) and delete 61-58.4.D(7)(a)(ii) to read:

(i) Lines one and one half (1-1/2) inches in diameter and smaller will not require blow-offs. Two inch lines shorter than two hundred (200) feet will not require a blow-off. However, a service connection shall be installed at the end of the line or another acceptable means of bleeding chlorine through the lines must be provided.

Revise 61-58.4.D(7)(d) to read:

(d) Design head loss calculations, including elevation changes shall show twenty-five (25) pounds per square inch minimum residual when instantaneous demand occurs or twenty (20) pounds per square inch minimum residual when either fire flow or flushing flow in excess of peak hourly flow occurs, whichever is greater.

Revise 61-58.4.D(9)(b) to read:

(b) Where Post-type hydrants are proposed, they must meet the flow requirements for blow-offs in R.61-58.4.D(7). Post hydrants shall not be used on lines smaller than three (3) inches. Design calculations must be submitted when utilizing post hydrants on three (3) inch lines. These calculations must show one hundred (100) gallons per minute in excess of peak hourly flow can be maintained, and provide a residual pressure greater than or equal to twenty (20) pounds per square inch.

Revise 61-58.4.D(11)(h) to read:

(h) Contaminated Areas - All water mains shall be located out of all contaminated areas. If the main must run through a contaminated site, the main material must protect the water system from being contaminated (e.g. Ductile Iron Pipe with chemical resistant gaskets).

Add 61-58.4.D(13)(b)(iv) to read:

(iv) Blow-offs shall not be directed toward creeks or other water bodies without proper precaution being taken to dechlorinate prior to discharge.

Add 61-58.4.G to read:

G. Aquifer Storage and Recovery (ASR) - This section applies to the construction of new ASR wells and the modification of existing public water supply wells to allow its use as an ASR well.

(1) ASR Well Design, Construction, and Initial Development.

(a) All ASR wells must be designed, constructed and initially developed in accordance with all applicable sections of R.61-58.2.B.

(b) Underground Injection Control (UIC) Construction Permit: An UIC construction permit pursuant to State Regulation R.61-87 is required for all ASR wells.

(c) Preliminary Engineering Report (PER): A PER must be submitted and reviewed by the Department for all ASR wells in accordance with applicable portions of R.61-58.1.C prior to submission of the construction application.

(d) ASR Wellhead Piping must meet the following minimum requirements:

(i) A properly sized injection line must be provided.

(ii) The injection by-pass line, or main wellhead piping, must be provided with a means of recording instantaneous and totalized flows both in and out of the well.

(iii) A properly placed check valve must be provided in the injection by-pass line.

(iv) A means must be provided to manually isolate the injection line.

(v) Calculations must be provided to show the system can maintain pressure requirements at all services taps during injection.

(2) ASR Water Treatment: All ASR water treatment must be in accordance with all applicable portions of R.61-58.2.D. In addition, all water withdrawn from ASR wells must be properly disinfected in accordance with all applicable requirements of its source water (i.e., groundwater or surface water).

(3) ASR Well Final Development. An UIC permit for the operation of an ASR well must be obtained in accordance with R.61-87.

(a) Well Development Report: A well development report must be submitted and reviewed by the Department under R.61-87 which outlines the findings of the final ASR well development (e.g., injection and withdrawal rates, cycle testing, water quality data).

(b) Location of Discharge: All pumping discharge must be done in accordance with R.61-58.2.B(12)(c).

Revise 61-58.7.B(2)(a) through (e); (f) through (l) remain the same:

(a) detailed instructions for the operation of all major components of the water system, including wells and/or intakes, pumps, chemical feed equipment, etc.

(b) detailed instructions on starting and stopping any treatment plant;

(c) preventive maintenance schedules on equipment;

(d) reporting and public notification requirements;

(e) water quality monitoring, including frequency of monitoring and sampling and analytical procedures for any monitoring conducted by the water system ;

Add 61-58.7.B(11)(d) to read:

(d) A public water system which fluoridates must notify their service population and all local dental and public health practices prior to ceasing fluoridation.

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Revise 61-58.7.B(19)(c) to read:

(c) effluent from each filter and the combined filter effluent prior to any post chemical addition;

Revise 61-58.7.C(1) to read:

(1) All surface water treatment plants shall have an operator of the appropriate grade present at the plant and responsible for its operation, when the plant is producing water for public consumption.

Revise 61-58.7.C(4) to read:

(4) The treatment facility shall be operated such that the Department approved filtration rate is not exceeded at any time, and the pretreatment retention times are not reduced below those times approved by the Department. The treatment facility shall be operated such that hydraulic surges through the filters are minimized during flow rate changes and when filters are removed from service for backwashing.

Revise 61-58.7.C(8)(c) to read:

(c) The settled water shall be analyzed for turbidity and for disinfectant residual if a pre-disinfectant is used. If the pretreatment unit is used as a disinfectant sequence, the disinfectant concentration, pH and water temperature shall be measured in accordance with the requirements of R.61-58.10 for calculating CT values.

Revise 61-58.7.C(12) to read:

(12) When the average daily demand during any month exceeds eighty (80) percent of the public water system's reliable capacity, as specified in R.61-58.7.C(11), the system shall submit a preliminary engineering report to the Department within one hundred eighty (180) days addressing in detail any upgrade necessary to keep up with any growth in demand on the system. When the average daily demand during any month exceeds ninety (90) percent of the public water system's reliable capacity as specified in R.61-58.7.C(11), the system shall submit to the Department plans and specifications along with an application for a permit to construct the upgrade within one hundred eighty (180) days, unless a longer time period is specified by the Department .

Revise 61-58.7.D(1) to read:

(1) All well heads and associated piping shall be inspected at a minimum of once a week. Stand-by wells shall be inspected and exercised at least quarterly. Documentation of these inspections must be maintained.

Revise 61-58.7.D(10) to read:

(10) If a well is no longer used ,does not meet the requirements of a stand-by or emergency well, and is not converted to another active use (e.g. irrigation), it shall be properly abandoned in accordance with R.61-58.2.B(15).

Add 61-58.7.D(14) and (15) to read:

(14) Stand-by wells must be exercised and sampled for total coliform on at least a quarterly basis. In addition, stand-by wells must be sampled annually for nitrate and nitrite. This monitoring is conducted by the water system and records must be maintained for Department inspection. Whenever a stand-by well is put in service, the system must notify the Department as soon as possible, but in no case later than the end of the next business day.

(15) Emergency wells must be exercised on an annual basis to ensure that they are operable. Whenever an emergency well is placed into service, the system must notify the Department as soon as possible, but in no

case later than the end of the next business day. In addition, the system must immediately issue a Boil Water Advisory for all portions of the system being served by the emergency well.

Revise 61-58.7.E(1) and (1)(a); add (1)(b) and (c) to read:

(1) Operator Certification

(a) All distribution treatment plants (e.g. booster chlorination stations) shall be monitored by an operator of appropriate grade, at a frequency to ensure proper operation, but in no case less than once a day. Such monitoring may be accomplished through site visits and/or remote monitoring equipment approved by the Department

(b) All community and non-transient non-community water systems must designate an operator(s) of appropriate grade as the operator responsible for the operation and maintenance of their distribution system.

(c) All community and non-transient non-community water systems must be operated such that all personnel making decisions which could affect water quality, water quantity, or distribution system integrity be certified distribution system operators. Certified water treatment plant operators that make such decisions as a part of their routine treatment plant operation duties (e.g. starting and stopping distribution pumps) are not required to have dual certification.

Revise 61-58.7.E(2) to read:

(2) All elevated, hydropneumatic and ground storage tanks shall be inspected at a minimum of once a week for the purpose of checking on the security of the tank(s) and insuring that proper air/water ratios are being maintained in hydropneumatic storage tanks. Vent screens, hatches and other openings on atmospheric tanks must be inspected annually to ensure sanitary protection.

Revise 61-58.7.E(11) to read:

(11) All community water systems shall initiate and carry out a program aimed at detecting leaks in the distribution system. At a minimum, a leak detection program shall include a comparison of water produced to water sold or used for other purposes. Any leaks found through this program or any leaks discovered through other means shall be repaired promptly. Records shall be kept of the leaks detected and the repairs made.

Revise 61-58.7.E(14) and add E(15) and (16) to read:

(14) The Department shall be notified in writing at least ten (10) days prior to the repainting of the interior or exterior of any storage tank. All interior paint coatings shall be certified as meeting ANSI/NSF Standard 61.

(15) A storage tank that is drained for any reason must be properly disinfected and satisfactory bacteriological samples must be obtained prior to placing it back into service.

(16) The Department shall be notified in writing at least thirty (30) days prior to the entry of an underwater diver into a finished water storage tank for the purpose of inspecting or cleaning of the tank.

Revise 61-58.7.F(8) to read:

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(8) When double check valve assemblies, pressure vacuum breakers, and/or reduced pressure principal backflow prevention assemblies are installed to protect a public water system against the possibility of backflow from a customer's water service, routine testing of the assemblies shall be performed by a certified tester.

Revise 61-58.7.F(9)(a) to read:

(a) Each certified tester's license shall expire three (3) years from the date of issue. In order to renew this certification for three (3) more years, the tester shall come before a designated person approved by the Department and shall successfully complete a written examination with a passing score of 70%, and perform the prescribed test on an approved reduced pressure principal backflow prevention assembly, double check valve assembly, and a pressure vacuum breaker using the tester's own differential pressure gauge. The gauge must be accurate within 2% of full scale or ∇ 0.3 pounds per square inch differential (PSID). Any gauge found to be inaccurate or malfunctioning will be required to be calibrated or repaired as needed to bring it into compliance before certification will be renewed.

Add 61-58.7.F(10) to read:

(10) Where provided, pressure vacuum breakers shall be installed at a minimum of twelve (12) inches above the highest downstream piping and shall not be subject to backpressure.

Revise 61-58.7.G(1) to read:

(1) All drinking water vending machines and dispensing stations shall be monitored by an operator who holds a valid Bottle Water Class Operator's Certificate issued by the Department of Labor, Licensing and Regulation, at a frequency to ensure proper operation. Dispensing stations shall be inspected by the operator no less than once a week.

Revise 61-58.7.H(2) to read:

(2) All sources used by bottled water plants in the State shall be approved by Department prior to their use. These sources shall be monitored on an annual basis for all contaminants specified in R.61-58.5, R.61-58.10, and R.61-58.11. The results of this monitoring shall be submitted to the Department by the January 10th following the year for which the monitoring is conducted. If the source is from the distribution system of existing public water system in the State, this monitoring is not required. However, the operator of such a bottled water plant shall hold a valid Bottle Water Class Operator's Certificate issued by the Department of Labor, Licensing and Regulation.

Add 61-58.7.I to read:

I. Operation and Maintenance of Aquifer Storage and Recovery (ASR) Wells.

(1) All ASR wells must be operated and maintained in accordance with their construction and operating permits(s) and any approved modifications.

(2) The Department may require routine testing of specific water quality parameters. Results of such testing must be submitted to the Department upon request or at a frequency established by the Department.

(3) Records must be kept of total flow volume into and out of an ASR well. Such records must be submitted to the Department upon request or at a frequency established by the Department.

(4) For the purposes of determining compliance with R.61-58.7.C(12) and R.61-58.7.D(12), the Department may consider up to ninety (90) percent of the water stored in an ASR well(s) as an additional source

of water in lieu of requiring the expansion of existing sources or treatment facilities or the development of new sources or treatment facilities on a case-by-case basis.

Preliminary Fiscal Impact Statement:

There will be minimal cost to the state and its political subdivisions. See Statement of Need and Reasonableness below.

Statement of Need and Reasonableness

The Statement of Need and Reasonableness was determined by staff analysis pursuant to S.S. Code Section 1-23-115(C)(1)-(3) and (9)-(11):

DESCRIPTION OF REGULATION: Amendment to Regulation 61-58, State Primary Drinking Water Regulations

Purpose: This amendment revises R.61-58 in order to adopt requirements for public water systems to ensure that their public water distribution systems are operated by properly certified water distribution operators. This ensures that the State's operator certification program meets the minimum requirements set forth in EPA's "Final Guidelines for the Certification and Recertification of the Operators of Community and Nontransient Noncommunity Public Water Systems; Notice" which was published in the Federal Register on February 5, 1999. While these guidelines do not constitute National Primary Drinking Water Regulations, and the State does not have to adopt these guideline to maintain primacy, the failure of the State to adopt requirements that meet these guidelines would result in a loss of twenty (20) percent of our State Revolving Fund allocation from EPA.

In addition, this amendment addresses design and operation issues associated with pumping drinking water into aquifers for storage and recovery. This is a practice which is becoming increasingly popular and the current regulations do not address this issue at all. This amendment also addresses other such emerging technologies which we currently do not address, or for which current regulations reflect outdated standards. The revisions will also clarify some existing requirements and update existing requirements to meet current industry standards and practices.

Legal Authority: The State Primary Drinking Water Regulations are authorized by S.C. Code Ann. 44-55-10 et. seq., State Safe Drinking Water Act.

Plan for Implementation: These amendments would be incorporated within R.61-58 upon approval by the S.C. General Assembly and publication in the State Register. The amendments will be implemented in the same manner in which the existing regulation is implemented.

DETERMINATION OF NEED AND REASONABLENESS OF THE REGULATION BASED ON ALL FACTORS HEREIN AND EXPECTED BENEFITS:

The adoption of these regulations which address operator certification will allow the Department to maintain our current level of SRF funding from EPA. The remainder of the amendments will clarify and update design and operation requirements for public water systems and would address important issues which are not addressed in current regulations.

DETERMINATION OF COSTS AND BENEFITS: The changes to the operator certification requirements for distribution systems may result in some additional costs for water systems resulting from training and certification costs for distribution system operators. Some water systems may have to contract the services of a certified distribution system operator to be responsible for the operation of their system, but it is more likely that an owner or current employee will be capable of becoming certified. In that instance, initial certification cost, license renewal fees, and training expenses will be the only costs incurred. The benefits associated with the operator

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certification changes are that the State retains full funding from EPA for the SRF. In addition, these changes would ensure that qualified persons are responsible for the operation of drinking water distribution systems in the state.

There should be little or no costs associated with other revisions to R.61-58. These changes are mostly meant to provide design and operation standards where none currently exist and to update standards which no longer represent accepted industry practices. There would be very little or no costs to the state to implement these regulations if adopted.

UNCERTAINTIES OF ESTIMATES: minimal

EFFECT ON ENVIRONMENT AND HEALTH: There will be no effect on the environment. The amendments would promote public health through improved operation of public water distribution systems.

DETRIMENTAL EFFECT ON THE ENVIRONMENT AND PUBLIC HEALTH IF THE REGULATION IS NOT IMPLEMENTED: There will be no detrimental effect on the environment if the amendments are not implemented. However, failure to adopt these amendments could result in a loss of funding for much needed infrastructure improvement projects which could, in turn, negatively affect public health.

Document No. 2626
COMMISSION ON HIGHER EDUCATION
 Chapter 62
 Statutory Authority: 1976 Code Sections 59-58-10 through 59-58-140
 Article 1
 Licensing Nonpublic Postsecondary Educational Institutions

- 62-2. Definitions.
- 62-4. Institutional licensing.
- 62-6. Licensing Criteria.
- 62-8. Financial Resources.
- 62-10. Program and Instructor Requirements for Diploma Programs.
- 62-11. Program and Instructor Requirements for Associate Degree Programs.
- 62-12. Program and Instructor Requirements for Baccalaureate Degree Programs.
- 62-13. Program and Instructor Requirements for Graduate Programs.
- 62-14. Library.
- 62-16. Catalog/Bulletin/Brochure Requirements.
- 62-18. Cancellation and Refund Policy.
- 62-20. Student Records.
- 62-23. Fees.
- 62-25. Deceptive Trade or Sales Practices.
- 62-26. Advertising Guidelines.
- 62-27. Procedures for Handling Consumer Complaints.
- 62-28. Revoking, Suspending, or Refusing to Issue or Renew a License.

Synopsis:

- 62-2. Remove the specific terms as defined by statute so that the regulation includes the terms by reference to the statute.
- 62-4.E. Add provision that the Commission may not license new activities if the new activities threaten the financial stability of the institution.
- 62-6.C. Refine requirement for access to sufficient learning resources and define formal agreements.
- 62-6.J.(1)Errata – correct to use parallel grammar
- 62-6.J.(2)Errata – correct to use parallel grammar
- 62-6.J.(4)Add provision that an owner or director of an institution cannot be a plaintiff or defendant in litigation that carries a significant risk to the ability of the institution to continue operation.
- 62-6.J.(5)Renumbered (4) to (5)
- 62-6.J.(6)Renumbered (5) to (6)
- 62-6.1. Add general requirement that programs offered by distance education must meet the licensing requirements and the policies, guidelines, and procedures regarding distance education adopted by the Commission.
- 62-8. Add provision that each institution must possess adequate liquid assets to make potential refunds and pay expenses in a timely fashion, and for initial licensure must possess liquid assets for start-up costs, expenses, and projected tuition income for the first term of enrollment.
- 62-8.A. Expand adequate financial records requirement to specifically include proper management, controls, and business practices.
- 62-10.A. Add general education requirements for diploma programs.
- 62-10.D. Add provision that notwithstanding the requirements of Section 62-10, the Commission may license out-of-state institutions that have recognized accreditation to recruit in South Carolina.
- 62-11.B. Specify 15 semester hours in general education course requirements for associate degree programs
- 62-11.C. Add language to define purpose of associate in arts and associate in science degrees as transfer and the requirement that 50 percent of the credit hours consist of college-level courses in the arts and sciences.
- 62-11.D. Add language to require that 50 percent of occupational degree curricula be in related technical course

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- instruction.
- 62-11.E. Renumber D to E.
- 62-11.F. Renumber E to F.
- 62-11.G. Renumber F to G.
- 62-11.H. Renumber G to H.
- 62-11.I. Renumber H to I; amend the regulation so that faculty credentials must be awarded by an accrediting agency recognized by the U.S. Department of Education instead of the Council on Postsecondary Accreditation.
- 62-11.J. Add provision that notwithstanding the requirements of Section 62-11, the Commission may license out-of-state institutions that have recognized accreditation to recruit in South Carolina.
- 62-12.A. Add language to require that baccalaureate degree programs include a minimum of 30 semester hours of general education course requirements in specific subjects.
- 62-12.D. Amend the regulation so that faculty credentials must be awarded by an accrediting agency recognized by the U.S. Department of Education instead of the Council on Postsecondary Accreditation.
- 62-12.E. Add language that teacher certification programs must meet the requirements of the South Carolina Department of Education.
- 62-13.D. Add language that teacher certification programs must meet the requirements of the South Carolina Department of Education.
- 62-14. Refine provision for learning resources so that licensed institutions ensure access via current and formal written agreements with other libraries or from other resources.
- 62-16.H. Add "South Carolina" to catalog reference to licensure by the Commission on Higher Education.
- 62-16.I. Expand references to accreditation to include program accreditation.
- 62-16.K. Add requirements and procedures for obtaining any licensure, registration, or certification required or advantageous for the occupational field.
- 62-18. Amend the regulation so that institutions approved for eligibility for Title IV Student Financial Aid must comply with the federal regulations regarding computation of refunds to students.
- 62-20. Add requirement that institutions store official student academic records in a secure vault or fireproof cabinet or store duplicates in a different building or at an off-site location, have adequate security measures in place to protect and back up electronically stored records, and have retention, disposal, and information-release policies.
- 62-20.A. Add the provision that institutions may destroy certain records no longer needed for reference as the Commission deems appropriate.
- 62-20.B. Add that institutions must maintain transcripts 50 years from graduation or termination (or a shorter time as the Commission deems appropriate for programs or courses for which it is unlikely that students will need documentation of attendance) as adequate minimum time for maintenance of "permanent" records.
- 62-20.D. Add provision that institutions must have in place at all times the capability to transfer academic records (easily accessible in format and system) for former and current students.
- 62-23.A. Increase initial licensure and renewal fees from minimum of \$100 to minimum of \$115 and from maximum of \$1,000 to maximum of \$1,150.
- 62-23.B.(1) Remove limit on late fee; add authority to reactivate late fee for incomplete applications for renewal of licenses.
- 62-23.B.(2) Add authority to waive or reduce late fee in case of mitigating circumstances.
- 62-23.C. Increase fee for amendment of license to move an existing location or site from \$50 to \$60.
- 62-23.D. Increase fee for amendment of license to add a program from minimum of \$50 to \$75 and a maximum of \$500 to \$575.
- 62-23.E. Increase fee for re-issuance of license for program or institution name change from \$25 to \$30.
- 62-23.F. Increase fee for initial and renewal of agent permit from \$25 to \$30.
- 62-23.I. Add authority to assess a fine for failure to respond in a timely manner to a request for information or for repeat violations involving deceptive trade or sales practices or advertising. The proposed language limits fines to \$1,000 per year.
- 62-23.K. Add authority for the Commission to adjust fees based on the consumer price index or other appropriate indicator.

- 62-25.K. Add provision to prohibit exempt institutions from claiming the Commission's oversight.
- 62-25.M. Add provision that institutional personnel may not discredit other schools or solicit any student to leave another institution.
- 62-26.D. Add provision that courses offered by distance education must clearly describe the method of delivery.
- 62-26.K. Add requirements for information provided through the Internet or other electronic media.
- 62-27.B. Add provision that if the Commission determines that circumstances upon which a student submits a complaint to the Commission justify, that notwithstanding the institution's refund policy, the Commission may require an institution to make full or partial refund of tuition or other fees.
- 62-27.C. Add provision that the Commission may intervene on behalf of a person filing a complaint with the Commission involving an institution that is exempt from the oversight of the Commission.
- 62-28.B. Add provision to probation authority that the Commission may require that an institution delay matriculation of new students into a new class term.

Instructions:

- Replace the first paragraph in Regulation 62-2.
- Add language to section 62-4.E.
- Amend language in Regulation 62-6, sections C and J as listed in synopsis and shown in text.
- Add subsection 62-6.1.
- Amend Regulation 62-8 as listed in synopsis and shown in text.
- Amend Regulation 62-10, section A as listed in synopsis and shown in text.
- Amend Regulation 62-11, sections C through I, and add section J as listed in synopsis and shown in text.
- Amend Regulation 62-12, sections A and D, and add section E as listed in synopsis and shown in text
- Add section 62-13.D.
- Amend 62-14 as listed in synopsis and shown in text.
- Amend Regulation 62-16, sections H, I, K, as listed in synopsis and shown in text.
- Amend Regulation 62-18 to add preamble paragraph.
- Amend Regulation 62-20, preamble and sections A, B, D, as listed in synopsis and shown in text.
- Amend Regulation 62-23, sections A, B, C, D, E, F, I, and add section K as listed in synopsis and shown in text.
- Amend Regulation 62-25, sections K and M as listed in synopsis and shown in text.
- Amend Regulation 62-26, sections D and K as listed in synopsis and shown in text.
- Amend Regulation 62-27, section B, and add section C as listed in synopsis and shown in text.
- Amend Regulation 62-28, section B, as listed in synopsis and shown in text.

Text:

62-2. Definitions.

As used in these regulations, terms are defined by Section 59-58-20, South Carolina Code of Laws, 1976, as amended.

The authority of the Commission under these regulations may be delegated by the Commission to the Commissioner or other designee.

62-4. Institutional licensing.

The following specific regulations apply to nonpublic educational institutional licensing:

- A. An institution must not begin operation until a license has been granted.
- B. Students must not be solicited until an institution has been licensed.

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C. A license is not transferable. In the event of a change in ownership of a licensed institution, the new owner or governing body must secure a license.

D. A license may be renewed if the institution submits its license renewal application and the required documentation in compliance with procedures to be provided by the Commission. The application and documentation must be submitted at least one-hundred twenty days before the expiration of the current license for degree-granting institutions, and forty-five days before expiration of the current license for nondegree-granting institutions.

E. A license will be issued for each location and shall specify the courses or programs that the institution is authorized to offer, the sites at which these courses or programs may be offered, and the certificates, diplomas, and degrees that the institution is authorized to award. An institution that seeks to offer unauthorized programs, begin a new program, add a new site, or award a certificate, diploma, or degree for which a license has not been issued must file for amendment to its license. The Commission will not license new programs and/or new sites if the new activities may threaten the institution's financial stability or threaten its ability to continue operation or to make timely refunds. In the absence of extenuating circumstances and resources, the Commission will not license additional activities at a nondegree-granting institution until the institution has at least taught a complete program cycle or within six months of initial licensure or licensure of an additional site.

F. Each institution shall prominently display its license at its place of business.

G. No institution shall divide or structure a program of instruction or educational service to avoid the application of any provision of these regulations.

H. An entity that offers flight training with the statement or implication that their primary objective is to train persons for gainful employment must apply for a license.

I. The Commission may, as necessary, investigate any entity subject to, or believed by the Commission to be subject to, the jurisdiction of Chapter 58 of Title 59, South Carolina Code of Laws, 1976, as amended. Such investigation may include the physical inspection of the institution's facilities and records.

62-6. Licensing Criteria.

The Commission may license the institution after due investigation has revealed that the institution and its programs have met the following criteria:

A. The course, program, curriculum, and instruction are of quality, content, and length as may reasonably and adequately achieve the stated objective for which the course, program, curriculum or instruction is offered. For specific program length and instructor qualifications, see Regulations 62- 9 through 62-13.

B. There is in the institution adequate space, equipment, instructional material, and appropriately qualified instructional personnel to provide training and education of good quality. The student-teacher ratio shall be reasonable at all times in keeping with generally accepted teaching modes for the subject matter. Skill training requires more attention, and thereby requires smaller classes.

C. The institution owns or makes available sufficient learning resources or, through formal agreements with institutional or other (where adequate) libraries to which students have access, ensures the provision of and access to adequate learning resources and services required to support the courses, programs and degrees offered. Formal agreements are defined and understood as written agreements in which each of the parties states clearly the resources and services it is willing and able to provide. Formal agreements shall be regularly reviewed and reaffirmed by participating parties.

D. A procedure exists for maintaining written records of the previous education and training of the applicant

student clearly showing that appropriate credit is given by the institution, shortening the education and training period where warranted, and notifying the student.

E. The institution has developed satisfactory course and program outline(s); a schedule of tuition, fees, other charges and refund policy; attendance policy; grading policy including a policy for incomplete grades; rules of operation and conduct; and a policy for handling student complaints in compliance with Regulation 62-27.

F. The institution must award the student an appropriate certificate, diploma or degree showing satisfactory completion of the course, program, or degree.

G. Adequate records as prescribed by the Commission are kept to show attendance and progress or grades, and satisfactory standards relating to attendance, progress, and conduct are enforced.

H. The institution complies with all local, county, and state regulations, such as fire, building, and sanitation codes. The Commission may require evidence of such compliance.

I. The institution is financially sound and can fulfill its commitments for education or training.

J. The institution's owners and directors are appropriately experienced and educated and are of good reputation and character. A person is considered to be of good reputation if:

(1) The person has no felony convictions related to the operation of a school, and the person has been rehabilitated from any other felony convictions;

(2) The person has no convictions involving crimes of moral turpitude;

(3) Within the last ten years, the person has never been successfully sued for fraud or deceptive trade practice;

(4) The person is not a plaintiff or defendant in litigation that carries a significant risk to the ability of the institution to continue operation;

(5) The person does not own a school currently violating legal requirements; has never owned a school with habitual violations; or has never owned a school that closed with violations including, but not limited to, unpaid refunds; or

(6) The person has not knowingly falsified or withheld information from representatives of the Commission.

K. The institution has, maintains, and publishes in its catalog, bulletin or brochure and in its enrollment contract the proper refund policy that complies with Regulation 62-18.

L. The institution does not use erroneous or misleading advertising by actual statement, omission, or intimation.

M. The institution does not use a name that is misleading, the same as or similar to that of an existing institution.

N. The institution publishes and enforces admission requirements, if any, for each certificate, diploma or degree offered by the institution.

O. The institution does not owe a penalty under Chapter 58 of Title 59, South Carolina Code of Laws, 1976.

P. The institution provides to each student before enrollment a catalog, bulletin or brochure meeting the requirements of Regulation 62-16.

Q. Any student living quarters owned, maintained or approved by the institution are appropriate, safe and

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adequate.

R. All new programs and all major program revisions have been reviewed and approved by the Commission before the proposed date of implementation.

S. The institution shall comply with such additional criteria as may be required by the Commission.

62-6.1. Distance Education.

Programs offered by distance education must meet the licensing requirements of the Nonpublic Postsecondary Institution License Act, this Chapter, and policies, guidelines, and procedures regarding distance education adopted by the Commission.

62-8. Financial Resources.

The adequacy of the financial resources of an institution shall be judged in relation to the basic purpose of the institution, the scope of its program(s), and the number of current or anticipated students. These resources shall be sufficient to show that the institution possesses adequate liquid assets to make potential refunds to students and to pay expenses in a timely fashion and can maintain continuity for an extended period. Evidence of adequate liquid assets for institutions applying for initial licensure may be in cash or other assets that may be readily converted into cash to buy goods and services or to satisfy obligations in an amount equal to start-up costs, expenses, and projected tuition income for the first term of enrollment. The financial management practices of the institution shall conform to the following standards:

A. Institutions shall maintain adequate financial records and exercise proper management, financial controls, and business practices.

B. All institutions must submit financial statements. If the statements are internally generated (not compiled by an independent certified public accountant or audited), a copy of the most recent income tax return must also be submitted. Accounting statements must be accrual. Institutions required to submit audited financial statements to the United States Department of Education must submit a copy of the statements to the Commission.

C. "Liabilities" shall include unearned tuition. "Current assets" shall not include any of the following:

(1) Intangible assets, including goodwill, going concern value, organization expense, start-up costs, long-term repayment of deferred charges, and non-returnable deposits, or

(2) State or federal grant funds that are not the property of the institution but are for future disbursement for the benefit of students.

D. Adequate insurance shall be carried to protect the institution's financial interests. The amount of insurance shall be sufficient to maintain the solvency of the institution in case of loss by fire or other causes, to protect the institution in instances of personal and public liability, and to assure continuity of the operation of the institution.

E. Degree-granting institutions shall maintain a sound plan for long-range financial development. The plan must be in writing and available for review.

F. Degree-granting institution's business and financial management shall be centralized under a qualified and bonded business officer responsible to the chief executive officer and charged with the supervision of the budget.

G. If the Commission determines that an institution is not financially sound, the Commission may, under terms and conditions prescribed by the Commission, require the institution to submit for its latest complete fiscal year and its current fiscal year, the following:

(1) A financial audit of the institution conducted by a licensed certified public accountant, following generally accepted auditing standards, which provides a detailed and accurate picture of the financial status of the institution since the preceding audit. The audit shall be an unqualified audit. For management issues raised by an audit, the latest audit shall show resolution of exceptions noted in the previous audit.

(2) The institution's financial plan for establishing financial responsibility.

(3) Any other information requested by the Commission.

H. If the Commission believes that the financial condition of an institution has deteriorated to the detriment of its students, the Commission may, upon thirty days notice, require the submission of monthly operating statements and/or current financial information.

I. During the period of licensure, the method of computing financial statements shall not be changed without prior approval of the Commission.

J. This regulation shall not prevent the Commission from taking any other actions authorized under these regulations.

62-10. Program and Instructor Requirements for Diploma Programs.

A. Diploma programs typically shall range in length from more than six hundred clock hours but less than one thousand five hundred clock hours, more than forty but less than ninety quarter credit hours, or more than twenty-seven but less than sixty semester credit hours. Generally, at least eighty percent of the program shall be in the technical courses prescribed by the program's objectives. Diploma programs must include at least 40 clock hours (or equivalent credit hours) in each of the following areas: postsecondary English, math, and social or behavioral science for a total of at least 120 clock hours (or equivalent credit hours).

B. Diploma program instructors must:

(1) have appropriate academic preparation or

(2) have a high school diploma or GED, and

(3) have completed a training or degree program in the applicable occupational area, and

(4) have a minimum of two years of practical experience in the occupation or subject or the equivalent, and

(5) have training to teach, and

(6) demonstrate up-to-date knowledge and continuing study of the particular subject field.

C. Instructors assigned to teach general education courses in a diploma program shall hold a bachelor's degree in the subject matter or have a bachelor's degree with a minimum of eighteen semester hours of courses in the discipline. Exceptions to academic preparation may be made with the consent of the Commission.

D. Notwithstanding the requirements of this section, the Commission may license out-of-state institutions accredited by a recognized accrediting agency to recruit in South Carolina.

62-11. Program and Instructor Requirements for Associate Degree Programs.

A. Associate degree programs are lower-division college programs which typically consist of courses that

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full-time students may complete in a minimum of two academic years, i.e., six to eight academic quarters or four academic semesters.

B. The curriculum shall consist of at least ninety quarter hours or sixty semester hours and, except for a highly specialized curriculum, a maximum generally of one hundred ten quarter credit hours or seventy-three semester credit hours of instruction. The curriculum must include a minimum of fifteen semester hours or equivalent in general education courses to include at least one (three semester-hour) course in each of the following areas: the humanities/fine arts, the social/behavioral sciences, and the natural sciences/mathematics. The curriculum must provide components designed to ensure competence in reading, writing, oral communication, fundamental mathematical skills, and basic use of computers.

C. The Associate in Arts and Associate in Science degrees primarily prepare the student to transfer to an upper-division baccalaureate degree program. To qualify as a transfer program, a minimum of fifty percent of credit hours required for completion of that program shall consist of college-level courses in the arts and sciences.

D. Occupational degrees must include at least fifty percent of quarter or semester hours of related technical course instruction.

E. Associate degree programs designed primarily for immediate employment should be designated as an Associate in Applied Science degree, or other appropriate title, and identified with a specialty designation. This identification of a specialty or major implies relevant preparation for employment in a specific area of work (e.g., Associate in Applied Science, Computer Technology).

F. Remedial/developmental/deficiency/refresher courses shall not be credited toward a degree.

G. Faculty members who teach general education courses (humanities/fine arts, social/behavioral sciences and natural sciences/mathematics) or professional, occupational, and technical courses designed for college transfer must have completed at least eighteen undergraduate semester hours in the teaching discipline and hold at least a bachelor's degree. Exceptions to academic preparation may be made with the consent of the Commission.

H. Faculty members who teach courses in professional, occupational, and technical areas that do not usually result in college transfer or in the continuation of students in senior institutions, must possess appropriate academic preparation or academic preparation coupled with work experience. The minimum academic degree for faculty teaching in professional, occupational and technical areas must be in a related field and at the same level at which the faculty member is teaching. Exceptions to academic preparation may be made with the consent of the Commission.

I. All faculty degrees must be from an institution that is accredited at the time awarded by an accrediting body recognized by the U.S. Department of Education unless an exception is granted by the Commission.

J. Notwithstanding the above requirements, the Commission may license out-of-state institutions accredited by a recognized accrediting agency to recruit in South Carolina.

62-12. Program and Instructor Requirements for Baccalaureate Degree Programs.

A. Baccalaureate degree programs typically consist of technical and general education courses in which full-time students may complete their requirements in a minimum of four academic years, twelve academic quarters or eight academic semesters. Each educational program leading to a baccalaureate degree normally has courses totaling a minimum of one-hundred eighty quarter credit hours or one-hundred twenty semester credit hours. The curriculum must include a minimum of thirty semester hours or equivalent in general education courses to include at least one (three semester-hour) course in each of the following areas: the humanities/fine arts, the social/behavioral sciences, and the natural sciences/mathematics. The curriculum must provide components designed to ensure competence in reading, writing, oral communication, fundamental mathematical skills, and

basic use of computers.

B. Faculty members who teach lower-division courses must meet the requirements specified in Regulation 62-11.

C. There should be an appropriate number of faculty members who hold terminal degrees, usually an earned doctorate, especially department chairpersons; all others who teach upper-division courses should hold master's degrees with at least eighteen graduate semester hours in the teaching discipline, or a master's degree with a major in the teaching discipline. In exceptional cases, outstanding professional experience and demonstrated contributions to the teaching discipline may be presented instead of formal academic preparation. Such exceptions must be justified by the institution on an individual basis.

D. Degrees must be from an institution that is accredited at the time awarded by an accrediting body recognized by the U.S. Department of Education.

E. Teacher certification programs must meet the requirements of the South Carolina Department of Education.

62-13. Program and Instructor Requirements for Graduate Programs.

A. Master's degree programs normally require satisfactory completion of full-time study for one or more academic years beyond the baccalaureate degree.

B. With rare exception, graduate faculty members shall hold a terminal degree, usually an earned doctorate, in the field in which they teach. Students shall have sufficient access to these faculty members to provide meaningful interaction.

C. A doctoral degree program normally requires satisfactory completion of three or more academic years of full-time study beyond the baccalaureate degree and evidence, usually a doctoral dissertation, of competence in independent research.

D. Teacher certification programs must meet the requirements of the South Carolina Department of Education.

62-14. Library

The institution shall maintain or ensure via current and formal written agreements with other libraries or from other resources that students have adequate access to a library with a collection, staff, services, equipment, and facilities that are adequate and appropriate for the purpose and enrollment of the institution. Copies of objectives, policies, and contractual agreements with other libraries shall be available in writing. Institutions offering graduate work shall provide library resources that include basic reference and bibliographic works in each field where work is offered and the major journal and serial sets for maintaining currency in each discipline.

62-16. Catalog/Bulletin/Brochure Requirements.

Each institution shall provide students, prospective students, and other interested persons a catalog, bulletin or brochure containing, as a minimum, the following:

- A. Name, address and telephone number of the institution.
- B. Date of publication and volume number.
- C. Table of contents, if justified by the length of the publication.
- D. Names of owners and officers, including any governing boards.

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- E. The institution's statement of purpose.
- F. A brief description of the institution's physical facilities, equipment to be used in class, and the maximum or usual class size.
- G. A realistic description of student living quarters if owned, maintained or approved by the institution, and full disclosure of conditions and fees.
- H. A statement in the catalog, bulletin or brochure to read, "Licensed by the South Carolina Commission on Higher Education" and the Commission's mailing address and telephone number.
- I. If the institution is accredited or if any of its programs are accredited and the institution makes reference to accreditation in its publications, the accrediting agency's name, address and telephone number.
- J. The admission requirements for each program and student application procedures.
- K. The educational, academic or occupational objectives of each program; the requirements and procedures for obtaining any licensure, registration, or certification required or advantageous for the occupational field or information concerning access to the same.
- L. The number of hours of instruction in each subject and the total program. For nondegree programs, the length of time in weeks or months normally required for completion.
- M. A statement of the certificate, diploma or degree awarded upon graduation.
- N. A calendar showing the class start and end dates, drop-add dates, holidays and vacations.
- O. Policies relating to tardiness, absences, makeup work, conduct (including causes for dismissal and conditions for re-admission), termination, reentry, and other rules and regulations of the institution.
- P. Standards of progress, including the grading system used, minimum scores required, academic probation policies (including re-admission requirements), maintenance of progress records, and how progress is reported to students. Grades shall be reported to students no less often than after each term.
- Q. A statement of tuition and other student charges related to the enrollment, such as deposits, fees, books and supplies, tools and equipment, and any other charges for which a student may be responsible.
- R. The cancellation and refund policy of the institution, which must comply with Regulation 62-18.
- S. A detailed and explicit description of job placement assistance available to students and/or graduates. If no placement assistance is offered, the institution shall so state.
- T. The institution's procedures for handling student complaints, which must comply with Regulation 62-27.
- U. A statement that enrollment in the institution or completion of the program does not guarantee employment.
- V. A statement that the institution makes no claim or guarantee that credit earned will transfer to another institution.
- W. Such other material facts concerning the institution and the program of instruction as are likely to affect the decision of the student enrolling therein.

X. Out-of-state truck driving institutions shall disclose that graduates should have attained the age of twenty-one before completion of the program of instruction. Those institutions admitting students between the ages of eighteen and twenty-one shall require all applicants to sign a statement of understanding that employment with truck driving companies operating interstate is not possible until the applicant attains the age of twenty-one.

Y. Supplemental page(s) may be used as a part of the catalog, bulletin or brochure provided they are used in such a way to become an effective part of the catalog, bulletin or brochure. Supplemental page(s) shall show an effective date and shall be presented to each prospective student before execution of any enrollment contract.

Z. The Commission may amend, modify, substitute, or alter these publication requirements as necessary and advisable because of the specialized nature and objective(s) of the institution.

62-18. Cancellation and Refund Policy.

Institutions that the U. S. Department of Education has approved for eligibility for Title IV Student Financial Aid must comply with the federal regulations governing institutional refunds. The following applies in other instances:

A. Each institution must maintain a cancellation and refund policy that must provide a full refund of monies paid by a student if:

(1) The student cancels the enrollment agreement or contract within seventy-two hours (until midnight of the third day excluding Saturdays, Sundays, and legal holidays) after the enrollment contract is signed by the prospective student;

(2) The applicant is not accepted by the institution.

(3) For home study and combination home study/resident institutions, if lessons are distributed before the applicant is accepted by the institution or before the expiration of the seventy-two-hour cancellation period has expired, and the applicant is not accepted or cancels the contract within the cancellation period, a full refund will be made, even if a lesson (or lessons) have been completed.

B. The institutional refund policy shall provide for a pro rata refund calculation, except that this paragraph will not apply for any student whose date of withdrawal is after the sixty percent point (in time) in the period of enrollment for which the student has been charged.

(1) Pro rata refund is a refund for a student attending the institution for the first time of not less than that portion of the tuition, fees, room and board, and other charges assessed the student equal to the portion of the period of enrollment for which the student has been charged that remains on the last day of attendance by the student, rounded downward to the nearest ten percent of that period, less any unpaid charges owed for the period of enrollment for which the student has been charged, and less an administrative fee not to exceed one hundred dollars.

(2) The portion of the period of enrollment for which the institution charged that remains shall be determined:

(a) in the case of a program that is measured in credit hours, by dividing the total number of weeks comprising the period of enrollment for which the student has been charged into the number of weeks remaining in that period as of the last recorded day of attendance by the student;

(b) in the case of a program that is measured in clock hours, by dividing the total number of clock hours comprising the period of enrollment for which the student has been charged into the number of clock hours remaining to be completed by the student in that period as of the last recorded day of attendance by the student; and

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(c) in the case of a correspondence program, by dividing the total number of lessons comprising the period of enrollment for which the institution has charged into the total number of such lessons not submitted by the student.

(3) After the student's first period of enrollment, a refund as provided in this section, except for room and board, must be made for students who withdraw in subsequent period(s) of enrollment due to mitigating circumstances. Mitigating circumstances are those that directly prohibit pursuit of a program and which are beyond the student's control: serious illness of the student, death in the student's immediate family, or active duty military service, including active duty for training.

(4) After expiration of the seventy-two-hour cancellation privilege, if the student does not attend, not more than one hundred dollars shall be retained by the institution.

(5) All efforts will be made to refund prepaid amounts for books, supplies and other charges unless the student has consumed or used those items and they can no longer be used or sold to new students, or returned by the institution to the supplier as "new" merchandise.

(6) Refunds shall be paid within forty days after the effective date of termination.

C. The refund policy for correspondence programs must provide that:

(1) The effective date of termination for refund purposes will be the earliest of the following:

(a) the date of notification to the student if the student is terminated by the institution;

(b) the date of receipt of notice from the student; or

(c) the end of the sixth calendar month following the month in which the student's last lesson assignment was received unless notification has been received from the student that the student wishes to remain enrolled. (In this event, the written notice from the student will be maintained in the student's permanent file.)

(2) If tuition is collected before any lessons have been completed, and if, after expiration of the seventy-two-hour cancellation privilege, the student fails to begin the program, no more than one hundred dollars shall be retained by the institution.

D. An institution is considered to have made a good faith effort to make a refund if the student's file contains evidence of the following attempts:

(1) Certified mail to the student's last known address;

(2) Certified mail to the student's permanent address; and

(3) Certified mail to the address of the student's parent or listed next of kin if different from the permanent address.

E. For programs consisting of a combination of home study lessons and resident training, not more than one hundred dollars will be retained by the institution for those students who fail to enter resident training.

62-20. Student Records.

Institutions must store official student academic records in a secure vault or fireproof cabinet or store duplicates in a different building or at an off-site location. If the institution uses computer generated and stored records, it must have adequate security measures to protect and back up the data. The institution must have policies

concerning retention and disposal of records and information-release policies which respect the rights of individual privacy, the confidentiality of records, and the best interests of the student and institution.

A. Each institution shall maintain, for a minimum of six years from graduation or termination or until no longer needed for reference as the Commission deems appropriate, student records that shall include at least the following:

(1) A copy of the enrollment agreement or contract and other instruments relating to the payment for educational services.

(2) Student information, including:

(a) student name;

(b) permanent or other address at which the student may be reached;

(c) records relating to financial payments and refunds;

(d) records relating to credit granted for prior education or experience; and

(e) record of attendance.

(3) Date of completion or termination and the reason(s) therefor.

(4) Record of any student grievance and subsequent resolution.

(5) Copies of correspondence and other records relating to the recruitment, enrollment and placement of the student.

B. Each institution shall provide upon request a transcript to the student who has satisfied all financial obligations currently due and payable to the institution. The transcript of the individual student's record of achievement must be maintained as a permanent record (minimum of 50 years from graduation or termination, or a shorter time as the Commission deems appropriate for programs or courses for which it is unlikely that students will need documentation of attendance) in a form that provides at least the following:

(1) Name of the student.

(2) Title of program, including total number of credit or clock hours of instruction received and dates of enrollment.

(3) Grade record of each course, lesson or unit of instruction and the cumulative grade for the program.

(4) Explanation of grading system.

C. In addition to the above, an out-of-state institution shall maintain records that include, but are not limited to, a list of the name and address of each student enrolled from within the State and such records shall be made available to the Commission upon request.

D. Each institution must have in place at all times the capability to transfer academic records for former and current students to a receiver. The records may be electronic or paper, and must be easily accessible in format and system. In the event of merger, consolidation, change of ownership, or dissolution of an institution, the institution owner or designee shall:

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(1) Notify the Commission in writing at the time the decision is made to merge, consolidate, sell, or close, but as a minimum, seventy-two hours before such action.

(2) Submit a plan to provide for the retention and disposition of records. The plan shall provide for the assignment of the records to another institution or agency willing to accept responsibility for their safety, maintenance, distribution, and, where appropriate, disposal. If the institution cannot provide for assignment of the records to another institution or agency, the Commission may seize the records and, as necessary, negotiate for assignment of the records to another institution or agency that will accept responsibility for their safety, maintenance, distribution, and, where appropriate, disposal.

(3) Provide to the Commission a record of the names, addresses and financial records of students currently enrolled whose programs have not been completed.

(4) Surrender the License to the Commission.

62-23. Fees.

A. Initial and annual institutional license fees are one-half of one percent of the actual or expected gross income of the licensed program(s), but not less than one hundred fifteen dollars or more than one thousand one hundred fifty dollars per location. Gross annual income is computed after a normal tax accounting year of an institution. Any tuition earned for licensed programs during that twelve-month period shall be included as the gross annual income. The only expense that can be deducted from gross tuition is refunds made to students. For out-of-state institutions licensed to offer their program(s) to residents of the State, gross income means that income generated from students enrolled in the State.

B. Late filing fees are as follows:

(1) An institution submitting its application for renewal or its annual periodic reports more than five business days after the due date shall be assessed an additional charge of ten percent of the institution's annual fee for each five business days the report is past due, but not less than fifty dollars for each five-day increment. If the renewal or annual report is submitted by the due date but is incomplete, the Commission will notify the institution and establish a specific date by which the remainder of the report must be submitted. If the remainder of the report is not submitted by the established date, the Commission may reactivate the late fee.

(2) The Commission may waive or reduce the late fee in case of mitigating circumstances as determined by the Commission.

C. Amendment of license to move an existing location or site: \$60

D. Amendment of license for each additional program or site: one-half of one percent of the projected additional gross tuition income for the first year, but not less than fifty dollars or more than five hundred seventy-five dollars per program. For out-of-state institutions licensed to offer their program(s) to residents of the State, gross income means that income generated from students enrolled in the State.

E. Re-issuance of license for program name change or institution name change: \$30.

F. Initial and renewal of agent permit: \$30.

G. Re-issuance of agent permit: \$10.

H. All fees shall be submitted at the time of application and are nonrefundable.

I. The Commission may assess a fine for failure to respond in a timely manner to a request from the Commission for information or for repeat violations involving deceptive trade or sales practices or advertising. In assessing a fine, the Commission must consider the nature of the violation and whether the institution has a history of infractions. A fine may not exceed one thousand dollars per year, and if the institution does not pay the fine within 30 days of written notification by the Commission, late fees may be assessed as described in this section, or the Commission may proceed with revocation of the license.

J. All fees shall be paid by check or money order payable to the "South Carolina Commission on Higher Education."

K. The Commission may periodically adjust fees based on the consumer price index or other appropriate indicator.

62-25. Deceptive Trade or Sales Practices.

No institution or agent shall use deceptive trade or sales practices in the operation of the institution or in the recruitment of students. For purposes of these regulations, it is a deceptive trade or sales practice for an institution or agent to:

A. Make or cause to be made any statement or representation, oral, written, or visual, about the offering of educational services if such institution or agent knows or should have known the statement or representation to be false, inaccurate, or misleading.

B. Represent falsely, directly or by implication, with a trade or business name or in any other manner, including the use of "help wanted" or other employment columns in a newspaper or other publication, that it is an employment agency or agent, or authorized training facility for another industry or member of industry, or to otherwise deceptively conceal the fact that it is an educational institution.

C. Represent falsely, directly or by implication, that any of its educational services have been approved by a particular industry or that successful completion of it qualifies a student for admission to a labor union or similar organization or for the receipt of a state license to do certain functions.

D. Represent falsely, directly or by implication, that the lack of a high school education, prior training, age, or experience of applicant is not a handicap or impediment to completing successfully a course or program of study and/or for gaining employment in the field for which the educational services were designed.

E. Adopt a name, trade name, or trademark that represents falsely, directly or by implication, the quality, scope, nature, size or integrity of the institution or its educational services.

F. Represent falsely, directly or by implication, that students completing a course or program of instruction successfully may transfer credit to any institution of higher education.

G. Represent falsely, directly or by implication, in its advertising or promotional materials or in any other manner, the size, location, facilities, equipment, the number of years of educational experience, qualifications of its faculty, the extent or nature of any approval received from any state agency, or the extent or nature of any accreditation received from any accrediting agency or association.

H. Provide prospective students with any testimonials, endorsements, or other information that have the tendency to mislead or deceive prospective students or the public regarding current practices of the institution, current conditions for employment opportunities, or probable earnings in the industry or occupation for which the education services were designed or because of the completion of any educational services.

I. Enroll a student when it is obvious that the student is unlikely to complete successfully a program of study or is unlikely to qualify for employment in the field for which the education is designed, unless this fact is

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affirmatively disclosed to the student and acknowledged, in writing, by the student.

J. Designate or refer to its sales representatives as “counselors,” “advisors,” or use words of similar import that have the tendency to mislead or deceive prospective students or the public regarding the authority or qualifications of sales representatives or agents.

K. No institution or representative of an institution shall use the terms “approval,” “approved,” or “approved to operate.” A statement that the institution is “Licensed by the South Carolina Commission on Higher Education” is the only acceptable language. There may be no statement or implication that licensing is an endorsement or recommendation by the State or by the Commission. An institution exempt from the Commission’s oversight may not claim that it is under authority of the Nonpublic Postsecondary Institution License Act or the Commission. It may not claim that the Commission recognizes it, grants it authority to operate, or use any other misleading language referring to approval, recognition, authority, licensure, accreditation, certification, registration, or oversight.

L. An institution shall not misrepresent the nature or extent of any prerequisites it has established for enrollment in a course or program of instruction. It shall not:

(1) Represent that a program is available only to those having a high school diploma or other specific educational qualifications, unless the sale of a program is limited to persons possessing generally acceptable evidence of a diploma or educational qualifications.

(2) Represent that only those who make an acceptable grade or complete successfully a certain test or examination will be admitted, if enrollments are not thus limited.

(3) Falsely represent that it will accept for enrollment only a limited number of persons or a limited number of persons from a certain geographical area.

(4) Falsely represent that applications for enrollment will be considered for only a limited period, or that they must be submitted by a certain date.

M. Institution personnel may not discredit other schools by falsely imputing to them dishonorable conduct, or disparage or demean the character or quality of their courses or student body. Institution personnel may not knowingly solicit any student to leave another educational institution.

62-26. Advertising Guidelines.

A. “Advertising” includes any form of public notice however distributed. Within this definition would be virtually all publications and promotional items and efforts that could normally be expected to be seen by significant numbers of prospective students or their sponsors. Examples include catalogs, bulletins, brochures and other institution publications, signs, mailing pieces, specialties, radio, television, audiovisual, newspaper, or any other form of public notice designed to aid in the institution’s recruiting and promotional activities.

B. Each institution shall maintain high ethical standards in the conduct of its operations, solicitation of its students, and in its advertising and promotional material. The use of any unfair or deceptive trade practice or the making or causing to be made any false, misleading or deceptive statement in any advertising or promotional material that has the tendency or capacity to mislead or deceive students, prospective students, or the public shall be cause for the refusal to issue or renew, or revocation or suspension of licenses or permits.

C. The correct name of the institution is to appear in all advertising. “Blind” ads are considered misleading and unethical.

D. The location of the institution must be noted on each advertising offering; courses offered by distance

education must clearly describe the method of delivery.

E. Reference in advertising to accreditation shall name the agency and shall be limited to accreditation currently held by the institution through nationally recognized accrediting agencies as defined and listed by the United States Department of Education.

F. The institution must be able to substantiate from its own records any advertised claims, including employment and earnings claims. If any oral or written placement claims are made, the institution must disclose its placement rate. Advertising of salaries and other occupational opportunities must clearly disclose the normal range of salaries and opportunities available to students immediately after graduation. The normal range would exclude the top ten percent and the bottom ten percent of the graduates. Claims must avoid “high starting salaries,” “top paying jobs,” “high pay,” and other exaggerated approaches. Large earnings shall not be implied.

G. When using classified advertising an institution shall not request a misclassification nor shall it allow others to use its name or program offerings in inappropriate classifications. “Help wanted,” or “employment” classifications are to be used only to procure employees for the institution, never to attract students.

H. Although advertising space limitations might restrict desirable explanations, the text must avoid abbreviated claims that might tend to be easily misunderstood. If an item is considered important enough to be included in advertising, it should be presented in a manner clearly understandable to anticipated readers. An institution may not claim space limitations as a reasonable excuse for limited disclosure that could tend to obscure, conceal, mislead, omit, deceive, confuse, distract, or otherwise continue to create misunderstanding.

I. An institution’s officials must accept full responsibility for advertising prepared and placed by its representatives, advertising agencies, or others involved by the institution in its recruiting and promotional efforts, and should therefore review and approve such advertising before its use.

J. Mention of institutional eligibility for federal grants, loans, or other student financial aid programs in advertising must be limited to the announcement, “Financial aid available for those who qualify.”

K. Information about programs or courses, available through the Internet, World Wide Web, or other electronic telecommunication methods, must provide access on its first ‘page’ to licensure and accreditation information as described in Regulation 62-16. Electronic links or contact information must be included to each licensing agency and to each accrediting agency. The institution’s web site must include the full and correct name of the institution, the name of the chief operating or academic officer, telephone numbers, street address, and the city where the institution is located. All other information on the web site must comply with the Commission’s trade and sales practices, advertising guidelines, rules, and regulations.

62-27. Procedures for Handling Consumer Complaints.

A. Any person having a complaint or grievance against an institution that is licensed by the Commission should make a reasonable effort to obtain satisfaction from the institution directly through the institution’s established procedures. In the event that a solution cannot be reached, the person may file a written complaint with the Commission. The complaint should include any evidence bearing on the issues and documentation that a reasonable effort was made to resolve the complaint directly with the institution.

B. The Commission will review the facts as set forth in the complaint and may intervene, as appropriate, to bring the matter to a satisfactory conclusion. Such intervention shall be limited to facilitating settlement through negotiation, and shall not include legal action for any party. Notwithstanding the refund policy of the institution, if the Commission determines that the circumstances justify such action, it may require that the institution make a full or partial refund of tuition or other fees as appropriate. If, in the opinion of the Commission, there is evidence that the institution may no longer be maintaining minimum standards, the Commission may call for an investigation to determine whether the institution’s license should be revoked.

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C. Notwithstanding an exemption from the oversight of the Commission, the Commission may intervene on the behalf of a person filing a complaint against an institution that is exempt from the oversight of the Commission. If merited and in the interest of consumer protection and in the absence of other means by which a person may have access to an oversight entity through which he or she may obtain assistance, the Commission may intervene. In its efforts to mediate an issue, the Commission may, through its complaint procedure, investigate an institution and encourage officials of an institution to make reasonable efforts to resolve the complaint in a fair and equitable manner.

62-28. Revoking, Suspending, or Refusing to Issue or Renew a License.

A. The Commission may revoke or suspend, or refuse to issue or renew a license for any of the following:

(1) Violation of any provision of Chapter 58 of Title 59, South Carolina Code of Laws, 1976, as amended, or any rule and regulation made by the Commission.

(2) Furnishing false, misleading or incomplete information to the Commission or failure to furnish any information requested by the Commission.

(3) Violation of any commitment made in an application for a license.

(4) Failure to provide or maintain premises or equipment in a safe and sanitary condition as required by law, or State or local regulations or ordinances applicable at the location of the institution.

(5) Failing within a reasonable time to provide information requested by the Commission because of a complaint that would indicate a violation of Chapter 58 of Title 59, South Carolina Code of Laws, 1976.

(6) Attempting to use or employ enrolled students in any commercial activity without specific authorization from the Commission. Such authorization will be granted only when such activities are essential to the students' program. Such authorization will not be unreasonably withheld.

B. The Commissioner may give the institution a period of probation if in the Commissioner's judgment any unsatisfactory condition can reasonably be corrected within such time. If the Commissioner determines that it is appropriate, he or she may require that an institution delay matriculation of new students into a new class term to give the Commissioner time to investigate, evaluate, and assist and to allow the institution officials time to evaluate and adjust.

C. Any ruling of the Commissioner in application of these regulations may be appealed to the Commission by the institution in accordance with established procedures. Licenses shall be denied, revoked, suspended or not renewed by the Commission according to procedures for notice, hearing, applicable depositions, subpoenas, other related process matters and subsequent procedures in compliance with the Administrative Procedures Act, Chapter 23 of Title 1, South Carolina Code of Laws, 1976.

D. If the Commission orders an institution to cease offering a program of instruction or revokes the institution's license, the Commission may delay approval for up to two years after the order to cease or revocation became effective. Before the Commission may grant any license, the institution shall establish that it complies with these regulations, that each program satisfies all the minimum standards prescribed by these regulations, and that the circumstances surrounding the institution's failure to meet the requirements have sufficiently changed so that the institution will be substantially likely to comply.

COMMISSION ON HIGHER EDUCATION

Chapter 62

Statutory Authority: Act 512, Part 2 Section 9

Division 2, Subdivision C, Subpart 1(6)

Act of Joint Resolution of South Carolina, 1984

Article 2, South Carolina Student Loan Corporation

Synopsis:

This regulation will amend current regulation to reflect changes made by the South Carolina Legislature. The changes will expand the eligibility criteria for cancellation of outstanding South Carolina Teacher Loan Program obligations. Current regulations allow recipients cancellation eligibility when they teach in a subject area designated as critical at the time the loan is made. The new regulation will allow recipients cancellation eligibility when they teach in a subject area designated as critical at the time the loan is made or subsequently. The rate of cancellation will be amended. Currently a percentage of the debt is cancelled regardless of the amount of the debt. The new regulation will allow the greater of the percentage of the debt or a set dollar amount to be cancelled for teaching service. In addition the new regulation will allow individuals changing careers to enter the teaching profession and individuals participating in the South Carolina Critical Needs Certification Program to receive loan assistance. This regulation establishes eligibility criteria and administrative changes for these two groups.

Section 62-120(B) addresses eligibility criteria for individuals changing careers to enter the teaching profession.

Section 62-120(C) addresses eligibility criteria for individuals participating in the South Carolina Department of Education's Critical Needs Certification Program.

Section 62-130(B) addresses coordination of this and other programs of financial aid and the disbursement of funds.

Sections 62-132(A) and (B) address the loan cancellation rates.

Section 62-132(A)(1) addresses the critical subject areas upon which cancellation is based.

Section 62-132(C)(1) addresses the administrative process for loans made to individuals participating in the Critical Needs Certification Program.

Instructions:

Add new R.62-120(B) and (C), R.62-130(B), and R.62-13(B)(1). Replace current text with new R.62-132(A)(1), R.62-132(B), R.62-132(C)(1).

Text:

Subarticle A General Introduction

62-110 Introduction

The South Carolina Student Loan Corporation, hereinafter called the Corporation, is an eligible lender under the South Carolina Student Loan Program (FFELP) as administered by the State Education Assistance Authority, hereinafter called the Authority, and has been designated pursuant to the South Carolina Education Improvement Act of 1984 to administer a loan program for State residents who wish to become certified teachers in the State in areas of critical need. All loans made under this program shall be subject to the regulations contained herein. Loans shall be made available without regard to race, sex, color, national origin, age or marital status.

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Subarticle B General Regulations Relating to Borrowers

62-120 Borrower Eligibility

A. To be eligible to receive a loan under the Teachers Loan Program a student shall:

- (1) Be a citizen or permanent resident of the United States; and
- (2) Be a bona fide resident of South Carolina, as defined in applicable State statutes governing the determination of residency for tuition and fee purposes at public colleges and universities within this State; and
- (3) Have been accepted for enrollment, or enrolled in good standing in an eligible institution as defined in the Regulations of the Authority and further defined as follows:
 - (a) For institutions located in South Carolina, those:
 - (i) Which offer baccalaureate or higher degree programs which are approved for initial teacher certification by the State Board of Education (Board); or
 - (ii) Whose highest offering is the Associate of Arts or Associate of Science Degrees which are designed for transfer to baccalaureate programs including those in teacher education, and which are eleemosynary institutions accredited by the Commission on Colleges of the Southern Association of Colleges and Schools;
 - (b) For institutions located out of the State, those institutions which are regionally accredited and which offer baccalaureate or higher degree programs which are approved for initial teacher certification by the appropriate credentialing agency in that State; and
- (4) Be enrolled on at least a half-time basis; and
- (5) Indicate a desire and intent to teach in South Carolina in an area of critical need as defined by the Board annually; and
- (6) If an undergraduate student who has completed one year (two semesters or the equivalent) of collegiate work and who is attending a South Carolina institution, has taken and passed a "Basic Skills Test" as required by the Board for entrance into a program of teacher education; or if an undergraduate who has not completed one year of collegiate work did achieve a score equal to or greater than the mean score achieved by all examinees in South Carolina taking the SAT or ACT in the year of graduation from high school or in the most recent year for which such figures are available; and
- (7) If an undergraduate student or a first-time graduate student, have attained a cumulative grade point ratio of at least 2.75 GPR (on a 4.0 scale) in collegiate work; or if an undergraduate who has not completed one semester of college work have graduated in the top 40% of his high school class or have received a high school diploma through completion of adult education courses or passing the GED; and
- (8) If an undergraduate student, be formally admitted to an undergraduate teacher education program or if the student is not yet formally admitted to such a program the Department of Education, or its equivalent, at an eligible institution must certify that the student has expressed an intent and desire to enter the field of teaching, and is enrolled in a teacher education program at a time required by the institution; and
- (9) If a continuing graduate student, have maintained a 3.5 GPR (on a 4.0 scale) on graduate work; and

(10) If a graduate student, have not previously been certified to teach, but entering a program for the specific purpose of becoming certified; or, if previously certified in a non-critical area, entering a program for the specific purpose of becoming certified to teach in a subject area which is defined by the Board as an area of critical need; and

(11) Be eligible in all other respects as may subsequently be required by the Corporation.

To be eligible to receive a loan up to the amount designated for individuals changing careers a student shall:

(1) Meet the eligibility requirements of 62-120(A). Students who have previously earned a baccalaureate degree will not be required to meet the academic standards specified in 62-120(A)(6), (7) and (9) during the initial year of teacher training. All applicable academic requirements must be met for all subsequent years; and

(2) Possess a baccalaureate degree or at the time of initial application be employed as an instructional assistant in the South Carolina public school system; and

(3) Have completed a baccalaureate degree a minimum of three years prior to the beginning of the teacher training (instructional assistants are exempt from this requirement) ; and

(4) Have been employed on a full time basis for minimum or three years, or the equivalent in part time employment, prior to the beginning of the teacher training: and

(5) Are not receiving any other funds through this program for the same period of teacher training.

C. To be eligible to receive a loan up to the amount designated for individuals participating in the Critical Needs Certification Program a student must be enrolled in the Critical Needs Certification Program as certified by the Board.

Subarticle C General Regulations Relating to Loan Maximums, Administration and Repayment

62-130 Loan Maximums

A. The maximum amount an eligible student may borrow under this program, is established by the South Carolina Commission on Higher Education, hereinafter called the Commission.

B. The maximum amount a borrower meeting the eligibility criteria in 62-120(B) may borrow shall not be limited by any definition used by the institution in determining the eligibility for financial aid and receipt of these funds shall not affect any federal, state or private assistance which the student may be eligible to receive.

62-131 Loan Administration

A. All loans shall be secured by a Promissory Note. Loan shall bear interest from the date of disbursement of funds to the borrower at the rate as may be specified by the Commission.

B. The proceeds of a loan shall normally be disbursed by academic registration period, but not sooner than required by the student to meet his educational expenses. A check made co-payable to the borrower and to the institution will be forwarded to the institution for distribution to the borrower; provided, however, that in situations in which it is not feasible to issue the check co-payable, the check will be made payable to the borrower alone and forwarded to the institution. Nothing in this section shall preclude loan funds being transferred to the institution by electronic means.

(1) Borrowers participating in the Critical Needs Certification Program will receive a single disbursement annually. A check will be made payable to the borrower and forwarded directly to that borrower.

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C. The student and institution shall agree to return to the Corporation any refunds applicable to these loans to which the student is entitled due to withdrawal of the student from the institution.

62-132 Repayment

A. A student who receives loans under this program shall be eligible to have the greater of 20% or three thousand dollars of the loan(s) cancelled for each full year, or the greater of 10% or one thousand five hundred dollars for each complete term of teaching experience as defined by the Board in the State in an area of critical need, up to a maximum of 100% of the amount of the loan(s) plus the interest thereon. There shall be no cancellation for partial terms.

(1) Upon employment in an eligible subject area, as defined by the Board at the time of loan application or subsequently, the borrower will be entitled to cancellation of all loans received under this program that are outstanding at the time of employment.

(2) Upon employment in a geographic area of critical need, the borrower will be entitled to cancellation of all loans received under this program even if such geographic area is subsequently no longer defined by the Board as one of critical need. If a borrower changes employment from one geographic area to another, cancellation of loans received under this program will be provided only if the geographic area to which the borrower is moving is defined as an area of critical need at that time. Defined Geographic areas of critical need will be provided to the borrower at the time the borrower begins to seek employment.

B. Borrowers who simultaneously meet the requirements described in A(1) and A(2) above shall be eligible to have the greater of 33 1/3% or five thousand dollars of the loan(s) cancelled for each full year, or the greater of 16 2/3% or two thousand five hundred dollars for each complete term, of teaching experience as defined by the Board, up to the maximum of 100% of the amount of the loan(s) plus the interest thereon. There shall be no cancellation for partial terms.

C. If a borrower does not meet the requirements for cancellation as specified in paragraph A above, the borrower must begin repayment of the loan(s) received under this program in accordance with the Regulations of the Corporation and subject to the terms of the Promissory Note(s), unless otherwise agreed to by the Corporation and the borrower. If a borrower does not initially meet the requirements for cancellations as set forth in paragraph A above, but subsequently does so, there will be no refund or credit provided for any amount paid; provided, however, any unpaid balance at the time the borrower begins teaching in an area of critical need will be eligible for cancellation subject to the regulations contained herein.

(1) Repayment of principal amount of a loan made under this program together with the interest, shall be made in monthly installments beginning six (6) months, after the date on which the borrower ceases to carry at least one-half the normal full-time academic work load at an eligible institution as defined by the Corporation or for borrowers participating in the Critical Needs Certification Program immediately upon disbursement of the loan funds. The monthly installment shall be at a rate which will repay the loan in not less than five (5) years nor more than ten (10) years from the beginning of the repayment period, unless the Corporation, at the request of the borrower, specifically provides a prepayment schedule that will repay the loan during a period of less than five (5) years. Unless specifically authorized by the Corporation, the monthly installment shall be at a rate of not less than \$50 per month. A borrower may accelerate repayment of the loan, in whole or in part, without penalty. Repayment of the loan is not required when the borrower is eligible for cancellation under 62-132 (A) of these regulations.

(2) In the event a borrower dies, the obligation to make any further repayment shall be cancelled upon receipt of a Certification of Death, (or upon receipt of such other evidence approved by the Corporation.) In the event a borrower becomes totally and permanently disabled, the obligation to make any further repayment shall be cancelled upon receipt of certification by a licensed physician.

(3) The Corporation shall have authority to assess a late charge for failure of the borrower to pay all or part of an installment within ten (10) days after its due date. The amount of such charge may not exceed six cents (.06) for each dollar of each installment due.

(4) The Corporation shall have the authority to collect from the borrower reasonable attorney's fees and other costs and charges necessary for the collection of any amount not paid when due.

(5) Nothing in this section shall preclude any forbearance for the benefit of the borrower which may be agreed upon by the parties to the loan and approved by the Corporation

D. The Corporation shall develop and maintain such procedures, subject to the approval of the Commission, as may be necessary to carry out applicable provisions of Act 512, Acts of Joint Resolutions of South Carolina, 1984 (Educational Improvement Act), as amended, and as may be required to exercise reasonable care and diligence in the making and collection of loans.

Fiscal Impact Statement:

There will be no increased cost to the State or its political subdivisions.

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Document No. 2664
DEPARTMENT OF LABOR, LICENSING AND REGULATION
BOARD OF MEDICAL EXAMINERS

CHAPTER 81

Statutory Authority: 1976 Code Sections 40-47-20; 40-1-70

Synopsis:

This Regulation provides for the issuance of a limited license for training to physicians who have completed a Fifth Pathway program. Fifth Pathway programs allow foreign trained physicians, who have completed four years of medical school in another country, to be eligible for a limited license for training (residency) in South Carolina. Applicants must have successfully completed a "fifth" year of clinical training in selected, pre-determined teaching hospitals in the United States. Applicants can elect to pursue a Fifth Pathway Program, in lieu of completing a two-year post-graduate training program in this country. The amendment deletes reference to a FMGEMS certificate, which no longer is available.

Instructions: Amend current Regulation 81-70 by replacing current language of Regulation 81-70 with new text as it appears below.

Text:

81-70. [Requirements for Limited License.]

Interns, residents and other physicians (M.D., D.O.) approved for limited practice situations may apply for a Limited License if they do not meet the requirements for a permanent license. An applicant for a Limited License must write the Board to request an application stating: Mailing address, type of training, and name of hospital or institution, and intended plans after expiration of Limited License.

Applicants are not eligible to apply for a Limited License until they have furnished the Board a copy of a contract where they have been offered a position for Board approval or have a letter written from the institution mailed directly to the Board recommending the applicant for a training program or a position to practice medicine. Applicants who practice before they are approved are subject to a late fee of \$25 and charges of violation of the Medical Practice Laws and Regulations.

Limited Licenses are issued only for medical training or limited practice approved by the Board. A Limited License will entitle the holder to apply for individual controlled substance registration through DHEC for a training program or any practice that is approved by the Board. Each Limited License is for one fiscal year or part thereof. Renewal may be considered upon approval of the Board.

An applicant must be a graduate of an approved medical school located in the United States or Canada; graduates of a medical school located outside the United States or Canada who may be considered on an individual basis.

Section VI of the application is to be completed by the dean of the applicant's medical school or as approved by the Board.

Graduates of medical schools located outside of the United States or Canada must complete Section VI and present approved copies of a medical diploma from schools approved by the Board. If the diploma is not in English, an approved translation must be provided. Graduates of medical schools located outside of the United States or Canada must also (1) document successful completion of a Fifth Pathway program, or (2) furnish copies of current ECFMG certificate and documentation of all post-graduate training completed in the United States. All copies must be initialed by the physician in charge of the applicant's program.

The Fifth Pathway or ECFMG certificate requirement may be waived if the applicant has a full-time academic faculty appointment at the rank of associate professor or greater in an A.C.G.M.E. accredited medical school in the United States.

Physicians remaining in South Carolina after the expiration of their Limited License may apply for a regular license by written examination or by endorsement at least 90 days before their Limited License expires (June

30th). No parts of a Limited License application shall be applied to an application for examination or endorsement. Each application is filed separately. The fee for each Limited License is \$150.

Fiscal Impact Statement: There will be no additional cost incurred by the State or any political subdivision.

Document No. 2630
DEPARTMENT OF NATURAL RESOURCES
CHAPTER 21
Statutory Authority: 1976 Code Section 49-23 et seq.

Synopsis:

The purpose of this regulation is to establish procedures by which the State's water resources can be carefully and closely monitored, conserved, and managed in the best interests of all South Carolinians during periods of drought.

Sections 11.1 through 11.2 address the purpose of the regulation, its applicability and definitions.

Sections 11.3 designates the jurisdiction of the regulation.

Section 11.4. establishes the Drought Management Areas.

Section 11.5 outlines who may serve on the Drought Response Committee.

Section 11.6 addresses the responsibilities of the Drought Response Committee.

Section 11.7 addresses the responsibilities of the Drought Information Center.

Section 11.8. establishes specific numerical values for the indices that define each level of drought.

Section 11.9. addresses the notification process once a drought declaration is made.

Section 11.10. addresses the curtailment of water use during droughts.

Section 11.11. addresses the mediation of disputes by the South Carolina Department of Natural Resources.

Section 11.12. addresses the development of drought response plans and ordinances.

Instructions: Add new R.121-11, South Carolina Department of Natural Resources Drought Planning Response to Chapter 121 regulations.

R.121- ___ South Carolina Department of Natural Resources Drought Planning Response.

Table Contents:

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- 121-11.6. Responsibilities of the Drought Response Committee.

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121-11.7. Drought Information Center.

121-11.8. Drought Alert Phases.

121-11.9. Notification of Drought.

121-11.10. Curtailment of Water Use During Droughts.

121-11.11. Mediation of Disputes by the South Carolina Department of Natural Resources

121-11.12. Development of Drought Response Plans and Ordinances.

121-11.1. Purpose.

The purposes of these regulations are to establish procedures by which the State's water resources can be carefully and closely monitored, conserved, and managed in the best interests of all South Carolinians during periods of drought. The terms used herein shall have the same meaning as set forth in 49-23-20.

121-11.2. Definitions.

A. 'Department' means the Department of Natural Resources.

B. 'Conservation' means, to minimize or prevent depletion or waste of the water resource.

C. 'Drought Response Committee' means the committee created under Section 49-23-60 to be convened to address drought related problems and responses.

D. 'Office of primary responsibility' means the Department of Natural Resources.

E. 'Person' means all persons, including individuals, firms, partnerships, associations, public or private institutions, municipalities or political subdivisions, governmental agencies, or private or public corporations organized under the laws of this State or another state or country.

F. 'Drought' means a period of diminished precipitation which results in negative impacts upon the hydrology, agriculture, biota, energy, and economy of the State.

G. 'Water resources' means water on or beneath the surface of the ground, including natural and artificial water courses, lakes or ponds, and water percolating, standing, or flowing beneath the surface of the ground.

H. 'Diffused surface water' means waters of a casual or vagrant character, lying or running on the surface of the earth but not in definite courses, streams, or waterbodies.

I. 'Drought indices' means topical and quantitative indicators of drought including, but not limited to, sustained decline in water levels of natural flowing streams and other natural bodies of water, decline in water tables above and below ground, forest fire indices, sustained decline in potable drinking water supplies, agricultural stress, low soil moisture, and low precipitation. The department must, through regulation, establish specific numerical values for the indices that define each level of drought.

J. 'Incipient drought' means that there is a threat of a drought as demonstrated by drought indices. The incipient drought phase shall initiate inhouse mobilization by department personnel and the Drought Response Committee. The department shall routinely monitor the climatic variables, streamflow, and water levels in potable drinking water supplies and water levels in the above and below ground water tables and lakes, and shall notify the Drought Response Committee and relevant federal, state, and local agencies that a portion of the State is experiencing an incipient drought condition. The department must increase monitoring activities to identify a change in existing conditions.

K. 'Moderate drought' means that there is an increasing threat of a drought as demonstrated by drought indices. Statements must be released to the news media by the department, and appropriate agencies must accelerate monitoring activities.

L. ‘Severe drought’ means that the drought has increased to severe levels as demonstrated by drought indices. This phase must be verified utilizing data, forecasts, and outlooks from various agencies. A drought of this severity normally requires an official declaration by the department and water withdrawals and use restrictions.

M. ‘Extreme drought’ means that the drought has increased to extreme levels as demonstrated by drought indices. The department shall continue to evaluate information from various sources. Upon confirmation of an Extreme Drought Alert Phase, the Drought Response Committee may recommend that the Governor issue a public statement that an extreme drought situation exists and that appropriate water-use and withdrawal restrictions be imposed.

N. ‘Board’ means the governing authority of the Department of Natural Resources.

O. ‘Minimum flow’ means the monthly 5 percentile flow

P. ‘Trigger level’ is defined as a water level decline equal to 150 ft. below the predevelopment level of an aquifer except for the Floridan aquifer system in which the trigger level is a decline of 75 ft below the predevelopment level or to mean sea-level, whichever is the least decline. Decline in aquifer water levels due to withdrawals not associated with drought should not be used for declaration of drought alert phases.

Q. ‘Drought Emergency’ exists as declared by the Governor when the safety, security, health or welfare of the State or any portion of the State is threatened.

R. ‘Essential water use’ means water used strictly for fire-fighting purposes, health and medical purposes, maintaining minimum streamflow requirements, and minimum water levels in the potable drinking water supplies and the above and below ground water tables, and the use of water to satisfy federal, state, or local public health and safety requirements is considered essential water use.

S. ‘Non-essential water use’ means categories of water use, other than essential water use, which may be curtailed during severe or extreme drought.

T. ‘7Q10 Flow’ is defined as the lowest mean streamflow over seven consecutive days that can be expected to occur once in a ten year period. In any year, there is a 10 percent probability that the average flow for seven consecutive days will be equal to or less than the 7Q10.

121-11.3. Jurisdiction.

These regulations apply to every person using water in this State and to all water resources of the State, but does not authorize any restriction in use of water during an incipient, moderate, and severe drought declaration injected into aquifer storage and recovery facilities, water stored in managed watershed impoundments or water from any pond completely situated on private property and fed only by diffused surface water. During a drought declaration, the use of water from a managed watershed impoundment shall not be restricted as long as minimum streamflow or flow equal to the 7Q10 is maintained, whichever is less.

121-11.4. Drought Management Areas Established.

A. In order to respond to drought conditions, four drought management areas are established as follows:

(1) The West (Savannah) Drought Management Area shall include the following counties:

(a) Oconee;

(b) Pickens;

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- (c) Anderson;
- (d) Abbeville;
- (e) McCormick;
- (f) Edgefield;
- (g) Aiken;
- (h) Barnwell;
- (i) Allendale;
- (j) Hampton;
- (k) Jasper;
- (l) Beaufort.

(2) The Central (Santee) Drought Management Area shall include the following counties:

- (a) Greenville;
- (b) Spartanburg;
- (c) Cherokee;
- (d) York;
- (e) Laurens;
- (f) Union;
- (g) Chester;
- (h) Greenwood;
- (i) Newberry;
- (j) Fairfield;
- (k) Saluda;
- (l) Lexington;
- (m) Richland;
- (n) Sumter;
- (o) Calhoun;

- (p) Clarendon;
- (q) Williamsburg;
- (r) Georgetown.

(3) The Northeast (Pee Dee) Drought Management Area shall include the following counties:

- (a) Chesterfield;
- (b) Marlboro;
- (c) Darlington;
- (d) Florence;
- (e) Dillon;
- (f) Marion;
- (g) Horry;
- (h) Lancaster;
- (i) Kershaw;
- (j) Lee;

(4) The Southern (ACE) Drought Management Area shall include the following counties:

- (a) Orangeburg;
- (b) Bamberg;
- (c) Colleton;
- (d) Dorchester;
- (e) Charleston;
- (f) Berkeley.

B. Establishment of drought management areas by the department in no way limits the department's or the Drought Response Committee's authority to act in an area smaller than a drought management area, such as a county or watershed. In order to prevent overly broad response to drought conditions, drought response measures shall be considered within individual drought management areas, as applicable. Insofar as practicable, within an individual drought management area, drought response measures shall be considered and administered in individual counties.

121-11.5. Drought Response Committee.

A. The Drought Response Committee shall consist of state representation and local representation for each drought management area as specified in R.121-11.4.

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(1) A representative of each of the following State agencies shall represent State interests:

- (a) South Carolina Department of Natural Resources;
- (b) South Carolina Emergency Preparedness Division of the Office of the Adjutant General;
- (c) South Carolina Department of Health and Environmental Control;
- (d) South Carolina Department of Agriculture;
- (e) South Carolina Forestry Commission;

(2) Local representatives for each drought management area as specified in R.121-11.4 shall be appointed by the Governor with the advice and consent of the Senate to represent the following interests:

- (a) Counties;
- (b) Municipalities;
- (c) Public service districts;
- (d) Private water suppliers;
- (e) Agriculture;
- (f) Industry;
- (g) Domestic users;
- (h) Regional councils of governments;
- (i) Commissions of public works;
- (j) Power generation facilities;
- (k) Special purpose districts;
- (l) Soil and Water Conservation Districts.

There may not be more than two members on a local committee from each county within the drought management area.

The statewide committee shall coordinate planning and response only upon consultation with the appropriate local committee in the impacted drought management area during moderate, severe and extreme drought declarations. The Governor shall appoint the chair of the Drought Response Committee. The department shall provide administrative support.

(3) The Governor may appoint additional members as necessary to insure broad based input on the committee and may make interim appointments when the General Assembly is not in session. The statewide committee shall coordinate planning and response only upon consultation with the appropriate local committee in the impacted drought management area during moderate, severe and extreme drought declarations.

(4) Individual members of the Drought Response Committee representing local interests shall serve a term of four (4) years and may be reappointed. Appointments will commence and end as of March 1; however, the appointment will continue after March 1 until a successor is appointed. For additional Drought Response Committee members over and above those identified in Subsection (2) above, the appointment may continue after March 1 until a successor is appointed or notice is given that the additional position will not be reappointed.

B. The Governor shall appoint the chair of the Drought Response Committee. The department shall provide administrative support.

C. The Drought Response Committee for individual drought management areas shall convene upon notice by the South Carolina Department of Natural Resources or at the request of five committee members. A majority of the members is needed for a quorum. Decisions will be made by the majority of members present at the meeting, and voting on any matter before the committee shall be by committee members in person only, not by proxy.

121-11.6. Responsibilities of the Drought Response Committee.

A. Members of the Drought Response Committee shall be notified at the onset of each Drought Alert Phase and provided information by the South Carolina Department of Natural Resources with respect to the Drought Alert Phase in each Drought Management Area as applicable. Notification to Committee members of the onset of each Drought Alert Phase shall be as provided in R.121-11.8 and R. 121-11.9. Following the notice of each Drought Alert Phase, the Drought Response Committee may be convened as provided in R.121-11.5.

B. The Drought Response Committee shall evaluate drought conditions within drought management areas to determine if a need exists for action beyond the scope of local government. The committee shall consider:

- (1) Effectiveness of local drought ordinances and plans in protecting and insuring adequate water supplies;
- (2) Regional impacts of water use on water sources and other water users;
- (3) Short term and extended climatological forecasts;
- (4) Other relevant information.

C. Upon determination that action in addition to local measures is necessary to insure adequate supplies of water in drought management areas, the Drought Response Committee shall prepare recommendations to reduce or alleviate drought impacts and submit the recommendations to the South Carolina Department of Natural Resources for implementation. If the recommendations involve the curtailment of water use, the committee shall determine which categories of non-essential water use must be curtailed in accordance with R.121-11.10.

D. The Drought Response Committee shall consult with and invite participation by representatives of municipalities, counties, Commissions of public works, public and private water suppliers, public service districts, power generation facilities, industries, special purpose districts and any other water users in the affected drought management area while evaluating drought conditions and in the preparing of recommended actions.

E. Should the drought situation continue to deteriorate to the point that the safety, security, health, or welfare of a drought management area is seriously threatened or impacted, the Drought Response Committee shall immediately notify the Governor and provide a priority list of recommended actions to the Governor.

121-11.7. Drought Information Center.

A. The Office of the State Climatologist, South Carolina Department of Natural Resources, shall maintain a Drought Information Center whenever one or more drought management areas of the State are in a moderate, severe or extreme drought alert phase. Information about the status of drought conditions and impacts on the

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economy and well-being of the State will be collected and made available to State Agencies, State Officials, the news media, and other concerned interests.

B. The Drought Information Center shall routinely collect, monitor, and evaluate selected climatic, water-supply and water-use data as necessary to identify at an early stage the onset of a drought or potential for drought, geographic extent of the affected area and changes in the drought levels.

C. Drought indices shall be computed on a weekly basis. These computations will be compared with the various similar indices computed by other State, Federal and private agencies.

D. Monitoring shall be accelerated whenever drought conditions approach or enter the moderate drought stage in one or more drought management areas. This may include acquiring additional rainfall, stream flow, water use, and ground water level data; and collecting additional information on the impact of the drought on agriculture, industry, domestic water supplies, and other users.

E. During periods of moderate, severe or extreme drought, available drought related data, as appropriate, will be provided to the Drought Information Center by the South Carolina Department of Agriculture, South Carolina Emergency Preparedness Division, South Carolina Forestry Commission, South Carolina Department of Health and Environmental Control, as well as by any other State Agency that is either impacted by or has information on drought conditions. Various Federal and local agencies may be asked to provide drought information on a voluntary basis.

121-11.8. Drought Alert Phases.

A. Four phases of drought alert are established herein, each identified by drought indices. Declines in streamflow or aquifer levels that are not associated with drought shall not be used for declaration of drought alert phases. Drought stage evaluation as indicated by quantified indices includes, but is not limited to:

(1) Incipient drought alert phase, Palmer Drought Index of -0.50 to -1.49; Crop Moisture Index of 0.00 to -1.49; Standard Precipitation Index of 0.00 to -0.99; Keetch Byram Drought Index of 300 to 399; U.S. Drought Monitor of D0; Average daily streamflow is 111%-120% of the minimum flow for two consecutive weeks; Static water level in an aquifer is between 11 feet and 20 feet above trigger level for two consecutive months;

The incipient drought may be declared if any of the indices indicate an incipient drought, however, indication by one index alone does not mandate a declaration. The incipient drought phase shall initiate inhouse mobilization by department personnel and the Drought Response Committee. The department shall routinely monitor the climatic variables, streamflow, and water levels in potable drinking water supplies and water levels in the above and below ground water tables and lakes, and shall notify the Drought Response Committee and relevant federal, state, and local agencies that a portion of the State is experiencing an incipient drought condition.

(2) Moderate drought alert phase, Palmer Drought Index of -1.50 to -2.99; Crop Moisture Index of -1.50 to -2.99; Standard Precipitation Index of -1.00 to -1.49; Keetch Byram Drought Index of 400 to 499; U.S. Drought Monitor of D1; Average daily streamflow is 101%-110% of the minimum flow for two consecutive weeks; Static water level in an aquifer is between 1 feet and 10 feet above trigger level for two consecutive months;

A moderate drought may be declared if any of the indices indicate a moderate drought, however, indication by one index alone does not mandate a declaration. During a moderate drought, statements must be released to the news media by the department, and appropriate agencies must accelerate monitoring activities.

(3) Severe drought alert phase, Palmer Drought Index of -3.00 to -3.99; Crop Moisture Index of -3.00 to -3.99; Standard Precipitation Index of -1.50 to -1.99; Keetch Byram Drought Index of 500 to 699; U.S. Drought Monitor of D2; Average daily streamflow is between the minimum flow and 90% of the minimum for two

consecutive weeks; Static water level in an aquifer is between the trigger level and 10 feet below for two consecutive months;

This phase must be verified utilizing data, forecasts, and outlooks from various agencies. Indication by one index alone does not mandate a declaration. A drought of this severity may require water withdrawal and water use restrictions.

(4) Extreme drought alert phase, Palmer Drought Index of -4.00 and below; Crop Moisture Index reaches or falls below -4.00; Standard Precipitation Index reaches or falls below -2.00 Keetch Byram Drought Index reaches or exceeds 700; U.S. Drought Monitor of D3 or higher; Average daily streamflow is less than 90% of the minimum for two consecutive weeks; Static water level in an aquifer is more than 10 feet below the trigger level for two consecutive months.

The department shall continue to evaluate information from various sources. Indication by one index alone does not mandate a declaration. Upon confirmation of an Extreme Drought Alert Phase, the Drought Response Committee may recommend that the Governor issue a public statement that an extreme drought situation exists and that appropriate water-use and withdrawal restrictions be imposed.

B. The need for the declaration of drought alert phases will be verified by other means, including, but not limited to other indices; water supply and demand; stream flow data; rainfall records; agricultural and forestry conditions; and general historical climatological data.

121-11.9. Notification of Drought.

A. Upon the inception of a drought alert phase, the South Carolina Department of Natural Resources will disseminate public information concerning all aspects of the drought. The initial action in responding to drought is public education, providing information as to existing and potential conditions and water conservation measures necessary to meet the demand for water at each drought alert phase.

B. The South Carolina Department of Natural Resources shall provide the following notice of Drought Alert Phases.

(1) The South Carolina Department of Natural Resources shall notify the Drought Response Committee at the beginning of an incipient drought alert phase and each upgrading of the drought alert to a higher phase. Such notice shall be by first class mail.

(2) The South Carolina Department of Natural Resources shall notify by first class mail public water systems in the affected Drought Management Areas and other appropriate agencies and individuals at the inception of a moderate drought alert phase and each upgrading of the drought alert to a higher phase.

(3) The South Carolina Department of Natural Resources shall publish notice at least once in a newspaper of general circulation in the areas affected at the inception of a Moderate Drought Alert Phase and each upgrading of the drought alert to a higher phase.

(4) The South Carolina Department of Natural Resources will take any other action appropriate to announce a drought alert.

121-11.10. Curtailment of Water Use During Droughts.

A. During severe or extreme drought conditions, the South Carolina Department of Natural Resources may require mandatory reduction or curtailment of non-essential water use in affected drought management areas if recommended by the Drought Response Committee in accordance with R.121-11.6. The curtailment of water use

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may involve adjusting the quantity of water used; adjusting the quality of water to meet the water use; adjusting the time of water use; and/or utilizing different sources of water.

B. The Drought Response Committee shall determine which categories of non-essential water use must be reduced or curtailed after reviewing each category of water use in C. Below by the following standards:

- (1) Purpose of the use;
- (2) Suitability of the use to the watercourse, lake, or aquifer;
- (3) Economic value of the use;
- (4) Social value of the use;
- (5) Extent and amount of the harm it causes;
- (6) Practicality of avoiding the harm by adjusting the use or method of use of one person or the other;
- (7) Practicality of adjusting the quantity of water used by each person;
- (8) Protection of existing values of water uses, land, investments, and enterprises;
- (9) Consumptive or non-consumptive nature of the use;
- (10) Impacts on essential water uses.

C. Non-essential water uses shall be evaluated in accordance with the following categories:

- (1) Agricultural use;
 - (a) Irrigation;
- (2) Commercial use;
 - (a) Commercial domestic use;
 - (b) Commercial process use;
- (3) Domestic use;
 - (a) Inside use;
 - (b) Outside use;
- (4) Electric Power Generation;
- (5) Industrial use;
 - (a) Industrial domestic use;
 - (b) Once through cooling;
 - (c) Industrial process use;

(6) Institutional;

(7) Recreational.

D. Following determination of non-essential water use, by the Drought Response Committee, the South Carolina Department of Natural Resources shall issue a declaration specifying the drought management areas affected and identifying the categories of non-essential water use to be reduced or curtailed. The declaration shall be sent to water systems, widely distributed to the news media, and published at least once a week in a newspaper of general circulation in each county affected.

E. Any person adversely affected by mandatory curtailment may, within ten days after such curtailment becomes effective, submit appropriate information to the South Carolina Department of Natural Resources and seek a variance from the curtailment. The following procedures shall apply to request for a variance from the water curtailment declaration:

(1) The request for variance shall include a detailed statement as to how the curtailment declaration adversely affects the person making the request;

(2) The request for variance shall provide information relevant to the water use in response to each of the standards in B.(1), (2), (3), (4), (5), (6), (7), (8), (9), and (10);

(3) Either the South Carolina Department of Natural Resources staff or the person requesting the variance may request a meeting to discuss any matter relevant to the request or to seek additional information. Such meeting shall be conducted as expeditiously as practicable;

(4) Upon receipt of all relevant information (specified in E. (1), (2), and (3) above) from the person requesting the variance, the South Carolina Department of Natural Resources staff shall issue a determination for the request for a variance. Such determination shall be made within five days of receipt of all relevant information from the person requesting the variance or within twenty days of the declaration of the curtailment, whichever comes first.

F. Persons not capable of immediate water use reduction or curtailment because of equipment damage or other extreme circumstances shall commence gradual reduction within twenty-four hours of the declaration of curtailment and shall notify the South Carolina Department of Natural Resources of their proposed reduction schedule by certified mail within three working days of the declaration of curtailment. A variance will be required for the gradual or reduced reduction and a request for a variance must be submitted to the South Carolina Department of Natural Resources as specified in E. above within ten days after such curtailment becomes effective.

G. Any declaration of curtailment shall continue in effect only as long as conditions in any drought management area require it. The declaration shall be terminated by action of either the Drought Response Committee or the South Carolina Department of Natural Resources, and notice of termination of the declaration shall be given as when originally issued.

H. In the event that a declaration issued pursuant to this regulation conflicts with any ordinance or plan adopted pursuant to R.121-11.12, the declaration shall supersede any ordinance or plan.

I. These regulations do not restrict or in any way affect the authority of the commissioner of the Department of Health and Environmental Control with respect to emergency declarations made in the interest of public health.

121-11.11. Mediation of Disputes by the South Carolina Department of Natural Resources.

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A. During any drought alert phase, the South Carolina Department of Natural Resources shall offer its services to mediate any dispute arising from competing demands for water. The mediation may be undertaken only upon the request of the parties involved and may not be binding.

B. The Chairman of the South Carolina Department of Natural Resources shall appoint a three person board to mediate each dispute. The board shall meet as necessary to mediate the dispute at a location deemed most appropriate by the board for all persons involved.

C. A written request shall be submitted from each grieved person to the South Carolina Department of Natural Resources. The requests will contain the following minimum information:

(1) Statement of the cause for mediation;

(2) Results sought by each person;

(3) Historical water use by each person;

(4) Description of water sources;

(5) Map of general area showing water sources, water transfers, water use points, and water discharge, as appropriate.

(6) Additional material deemed relative to the dispute by each person.

D. The South Carolina Department of Natural Resources as appropriate may conduct investigations to resolve the dispute.

E. A decision shall be made by the board within ten days of receipt of all necessary information.

F. A permanent record of each mediation process shall be maintained by the South Carolina Department of Natural Resources, and a summary of the request, findings, and conclusions of mediation shall be reported by the board to the South Carolina Department of Natural Resources and incorporated into the minutes of the South Carolina Department of Natural Resources. The South Carolina Department of Natural Resources will entertain requests for confidentiality if sufficient reasons exist to withhold information under the Freedom of Information Act.

G. A party affected by a declaration of the Drought Response Committee has the right to appeal that action to the Administrative Law Judge Division. The appeal must be filed within five days of the declaration. The filing of an appeal operates as an immediate stay of the declaration of the Drought Response Committee as it affects the appellant. A review of the immediate stay must be heard by the Administrative Law Judge Division within five days of the filing of the notice of appeal with the Administrative Law Judge Division. All issues under appeal must be heard as a contested case pursuant to the provisions of the Administrative Procedures Act and the rules of the Administrative Law Judge Division.

H. Any mediation shall not stop or preclude the South Carolina Department of Natural Resources and the Drought Response Committee from taking any other action authorized by the South Carolina Drought Response Act.

121-11.12. Development of Drought Response Plans and Ordinances.

A. The South Carolina Department of Natural Resources, in cooperation with the South Carolina Department of Health and Environmental Control, shall prepare and distribute a model drought response ordinance or ordinances within six months of approval by the General Assembly of these regulations. The model ordinance will be distributed to all entities which must develop ordinances and plans in accordance with B. below.

B. Municipalities, counties, public service districts, and commissions of public works engaged in the business or activity of supplying water for any purpose shall develop and implement local drought response ordinances, or local drought response plans when authority to enact ordinances does not exist.

(1) In so far as possible and practical, local governments will be responsible for alleviating the impacts of drought (See R.121-11.6B). Cooperation among adjacent water suppliers is encouraged to develop alternate water supply sources and back-up systems and to develop compatible plans and ordinances.

(2) Local drought response ordinances and plans shall be consistent with these regulations and shall contain at a minimum the following information:

(a) A description of alternate supply sources, including time, costs, and problems associated with putting alternate sources on-line.

(b) A water use reduction plan and schedule for moderate, severe, and extreme drought for each category, as appropriate, in R.121-11.10.

(c) An implementation plan and ordinance, as appropriate.

(3) Proposed ordinances and plans must be submitted to the South Carolina Department of Natural Resources for consistency review within twelve months of the effective date of these regulations.

(4) Proposed local drought response ordinances and plans must be adopted within eighteen months of the effective date of these regulations.

(5) Water suppliers as specified in B. above, commencing the business or activity of supplying water, after the effective date of these regulations, shall submit a local drought response ordinance or plan to the South Carolina Department of Natural Resources within six months of the commencement of the business or activity and shall adopt the ordinance or plan within twelve months of the commencement of the business or activity.

Fiscal Impact Statement:

During times of drought, this regulation may require water curtailment and any water dependent industry may be impacted. This regulation will assist in securing federal agricultural drought disaster money.

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Document No. 2657
DEPARTMENT OF NATURAL RESOURCES
CHAPTER 123

Statutory Authority: 1976 Code Sections 50-1-200, 50-1-210, 50-3-100, 50-11-10, 50-11-65, 50-11-310, 50-11-335, 50-11-350, 50-11-390, 50-11-430, 50-11-500, 50-11-520, 50-11-530, 50-11-854 and 50-11-2200.

Synopsis:

These regulations replace Chapter 123-40 in order to clarify Department of Natural Resources authority for filing specific regulations, correct past errors in the printed document, add new sections and incorporate all previously filed changes to Chapter 123-40, 123-50, 123-51, 123-52 and 123-53.

Instructions:

Amend Regulation 123-40 to include additional WMA's, and clarify regulatory authority; add regulation 123-50 (crow seasons); add 123-51 (wild turkey seasons, limits and methods of take); add 123-52 (deer hunting seasons, limits and methods of take for private lands in Game Zones 1, 2 and 4); add 123-53 (bear seasons).

ARTICLE 3.

WILDLIFE AND FRESH WATER FISHERIES DIVISION--HUNTING REGULATIONS

SUBARTICLE 1.

HUNTING IN WILDLIFE MANAGEMENT AREAS

123-40. Wildlife Management Area Regulations.

1.1 The following regulations amend and supersede South Carolina Department of Natural Resources regulation Numbers 123-40 , 123-50, 123-51, 123-52 and 123-53.

1.2. The regulations governing hunting including prescribed schedules and seasons, methods of hunting and taking wildlife, and bag limits for Wildlife Management Areas are as follows:

(A) Game Zone 1

Chauga, Franklin L. Gravely, Caesar's Head and Keowee WMA's

No more than 5 bucks total may be taken during all seasons combined, regardless of method (archery, muzzleloader, gun)

Archery Only Hunts For Deer on WMA (No dogs)	Dec. 24 - Jan. 1	Total of 2 deer for all archery only hunts. 2 per day, either-sex.
Primitive Weapons For Deer (No dogs)	Oct. 1 through Oct. 10	Muzzleloaders, 2 deer, buck only, 2 per day; archery, 2 deer, either-sex, 2 per day.

Still Gun Hunts For Deer Only (No dogs)	Oct. 11 through Oct. 16 Oct. 31- Dec. 22 (WMA) Oct. 31- Jan. 1 (Private land)	Total of 5 deer for all gun hunts. 2 deer buck ONLY, except either-sex on days specified in Reg. 4.2. Archers allowed to take either-sex during entire period.
Still Gun Hunts For Bear (No dogs)	Oct. 17 through Oct. 23	1 bear, no bears 100 lbs. or less, no sow with cubs at her side.
Special Party Dog Hunt For Bear Only	Oct. 24 through Oct. 30	3 bears per party, no bears 100 lbs.or less, no sow with cubs at her side. Groups hunting together are considered 1 party.

Parties of 25 or less must register with SCDNR, 153 Hopewell Road, Pendleton, SC 29670 by September 16. All harvested bear must be reported to the Clemson Wildlife Office @ 864-654-1671 within 24 hours of harvest.

Small Game	No hunting before Sept. 1 or after Mar. 1; otherwise. Game Zone 1 seasons apply.	Game Zone 1 bag limits.
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Hogs and Coyotes

On each WMA property, feral hogs and coyotes may be taken during the open season for game. No hog hunting with dogs during the still gun hunts for deer. Hog hunters must use small game weapons during small game-only season. During turkey season hogs may be taken using legal weapons for turkey only.

Keowee WMA

No hunting is allowed in research and teaching areas of Keowee WMA (research and teaching areas are posted with white signs) except those special hunts for youth or mobility-impaired as published by the Department.

Archery Hunts For Deer (No dogs)	Oct. 1 - Dec. 22	Total 4 deer, 2 per day, either-sex, not to include more than 2 bucks.
Quail	Wed. and Sat. only during Game Zones 1 and 2 seasons. No hunting for quail during archery hunts for deer.	10 per day.
Other Small Game	No hunting before Sept. 1 or after Mar. 1; otherwise Game Zones 1 and 2 seasons apply. North of Hwy 123 and west and east of the Keowee Arm of Lake Hartwell to Hwy 291 and across	Game Zone 1 & 2 bag limits.

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from Corinth Shiloh Fire Station and behind Jacobs Chuck, small game hunting with shotguns only. All other areas archery only for small game.

Hogs and Coyotes: On Keowee WMA property, feral hogs and coyotes may be taken during the open season for game. No hog hunting with dogs during the still gun hunts for deer. Hog hunters must use small game weapons during small game-only season. During turkey season hogs may be taken using legal weapons for turkey only.

(B) Game Zone 2

John C. Calhoun, Cokesbury, Clarks Hill, Parsons Mountain, Key Bridge, Forks, Ninety-six, Goldmine, Murray, Enoree, Fairforest, Keowee, Fant's Grove and Carlisle WMA's.

No more than 5 bucks total may be taken during all seasons combined, regardless of method (archery, muzzleloader, gun)

Archery (No dogs)	Sept. 15 - Sept. 30 Monday after Thanksgiving through 3rd Saturday after Thanksgiving on WMA.	Total of 3 deer for archery only hunts, 2 per day, either- sex.
Primitive Weapons Hunts (No dogs)	Oct. 1 - Oct. 10	2 Deer, buck Only for muzzleloaders except either-sex the last Sat. during primitive weapon season. Archery, either-sex.
Still Gun Hunts (No dogs)	Oct. 11 through the Saturday after Thanksgiving; 3rd Monday after Thanksgiving through Jan. 1.	10 deer; 2 per day, buck ONLY for gun hunts except either-sex on days specified in Reg. 4.2. Limit of 10 must not include more than 5 bucks. Male fawns apply toward the buck limit. Archers are allowed to take either sex during entire period; however, daily and season bag limits apply.
Small Game. No guns during the first archery-only hunt on WMA lands.	No hunting before Sept. 1 or after March 1; otherwise Game Zone 2 seasons apply.	Game Zone 2 bag limits.

Hogs And Coyotes: On WMA lands in Game Zone 2, hogs and coyotes may be taken during the open season for game. No hog or coyote hunting with dogs. Only small game weapons allowed during the small game-only seasons. During turkey season hogs may be taken using legal weapons for turkey only.

Keowee WMA

No hunting is allowed in research and teaching areas of Keowee WMA (research and teaching areas are posted with white signs) except those special hunts for youth or mobility-impaired as published by the Department.

Archery Hunts For Deer (No dogs)	Oct. 1 - Dec. 22	Total 4 deer, 2 per day, either-sex, not to include more than 2 bucks.
Quail	Wed. and Sat. only during Game Zones 1 and 2 seasons. No hunting for quail during archery hunts for deer.	10 per day.
Other Small Game	No hunting before Sept. 1 or after Mar. 1; otherwise Game Zones 1 and 2 seasons apply. North of Hwy 123 and west and east of the Keowee Arm of Lake Hartwell to Hwy 291 and across from Corinth Shiloh Fire Station and behind Jacobs Chuck, small game hunting with shotguns only. All other areas archery only for small game.	Game Zone 1 & 2 bag limits.

Hogs and Coyotes: On Keowee WMA property, feral hogs and coyotes may be taken during the open season for game. No hog hunting with dogs during the still gun hunts for deer. Hog hunters must use small game weapons during small game-only season. During turkey season hogs may be taken using legal weapons for turkey only.

Fants Grove WMA

Quality Deer Management Area - bucks must have at least 4 points on one side. A point must be at least one inch long. Hunters must sign in at the Clemson DNR Office check point. The Clemson DNR check point will open 2 hours before official sunrise for deer hunts. Hunters are required to wear a hat, coat or vest of international orange while hunting.

Archery Only (No dogs)	October 15 - December 7	Total of 4 deer, 2 per day, either-sex. Not to include more than 1 buck.
Still Gun Hunts (No dogs)	No open season except for hunters selected by computer drawing.	2 deer total, either-sex, except no more than 1 buck.

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Special Gun Hunts for youth, mobility impaired, women and primitive weapons.	Hunters selected by drawing.	2 deer, either-sex
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Small Game	No hunting before Sept. 1 or after Mar. 1; otherwise Game Zone 2 seasons apply. No small game hunting during archery only hunts except for waterfowl or designated dove field hunting. Waterfowl may be hunted Wed. and Sat. AM only and Quail hunting Wed. and Sat. only.	Game Zone 2 limits.
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Hogs and Coyotes: On Fants Grove WMA, feral hogs and coyotes may be taken during the open season for game. No hog hunting with dogs during the still gun hunts for deer. Hog hunters must use small game weapons during small game-only season. During turkey season hogs may be taken using legal weapons for turkey only.

(C) Crackerneck WMA and Ecological Reserve

All individuals must sign in and out at main gate. Scouting seasons (no weapons), will be Saturdays only during September and March. The gate opens at 6:00am and closes at 8:00pm. On deer hunt days, gates will open as follows: Oct., 4:30am-8:30pm; Nov. - Dec., 4:30am-7:30pm. For special hog hunts in Jan. and Feb., gate will be open from 5:30am-7:00pm. Hog hunters are required to wear either a hat, coat or vest of international orange. Hogs may NOT be taken from Crackerneck alive and hogs must be shown at check station gate. No more than 4 bay or catch dogs per party. On Saturday night raccoon hunts, raccoon hunters must cease hunting by midnight and exit the gate by 1:00am. On Friday night raccoon hunts, raccoon hunters must cease hunting by 1 hour before official sunrise and exit the gate by official sunrise. All reptiles and amphibians are protected. No turtles, snakes, frogs, toads, salamanders etc. can be captured, removed, killed or harassed.

Deer

Archery (No dogs)	1 st Fri. and Sat. in Oct.	2 deer , either-sex no more than 1 buck, no limit on hogs.
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Primitive Weapons (No buckshot)	2 nd Fri. and Sat. in Oct.	2 deer, either-sex, no more than 1 buck, no limit on hogs.
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Still Gun Hunts (No buckshot)	3 rd Fri. in Oct. - Jan. 1 Fri., Sat. and Thanksgiving Day only.	5 deer total, 2 per day, buck only except on either-sex days Fri. and Sat. only from the 1 st Fri. of gun hunts before Thanksgiving and the 1 st 2 Fri. and Sat. after Thanksgiving
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weekend. Total not to include more than 3 bucks.

Raccoon & Opossum	3 rd Sat. night in Oct. - Jan. 1, Sat. nights only; 1 st Fri. night in Jan. to last Sat. night in Feb., Fri. and Sat. nights only.	3 raccoons per party per night. No limit on Opossums.
Small Game(except no open season on bobcats, foxes, otters and fox squirrels).	3 rd Fri. in Oct. - last Sat. in Feb. Fri., Sat. and Thanksgiving Day only.	Game Zone 3 bag limits.
Hog Hunts with dogs. (Pistols only)	1 st Fri. in Jan. - last Fri. in Feb. Fridays only.	No limit.

(D) Game Zone 4

Fairforest, Enoree, Carlisle, Broad River, Dutchman and Wateree WMA's

No more than 5 bucks total may be taken during all seasons combined, regardless of method (archery, muzzleloader, gun)

Archery Only (No dogs)	Sept. 15 - Sept. 30 Monday after Thanksgiving through 3rd Saturday after Thanksgiving on WMA.	Total of 3 deer for archery only hunts, 2 per day, either-sex.
Primitive Weapons Hunts (No dogs)	Oct. 1 - Oct. 10	2 deer- Buck Only for muzzleloaders except either-sex the last Sat. during primitive weapon season. Archery, either-sex.
Still Gun Hunts (No dogs)	Oct. 11 through the Saturday after Thanksgiving; 3rd Monday after Thanksgiving through January 1.	10 deer; 2 per day, buck ONLY for gun hunts except either-sex on days specified in Reg. 4.2. Limit of 10 must not include more than 5 bucks. Male fawns apply toward the buck limit. Archers are allowed to take either sex during entire period; however, daily and season bag limits apply.

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Small Game. No guns during the first archery-only hunt on WMA lands.	No hunting before Sept. 1 or after Mar. 1; otherwise Game Zone 4 seasons apply.	Game Zone 4 bag limits.
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Hogs And Coyotes: On WMA lands in Game Zone 4, hogs and coyotes may be taken during the open season for game. No hog or coyote hunting with dogs. Only small game weapons allowed during the small game-only seasons. During turkey season hogs may be taken using legal weapons for turkey only.

Draper WMA

Small Game Quail	Sat. after Thanksgiving, 2nd Sat. in Dec., 3 rd Wed. in Dec., 1 st Wed. in Jan.	10 per day
Rabbit	Last Wed. in Nov., 1 st Sat. in Dec., Every Wed. and Sat. after the first Sat. in Jan. to Mar. 1.	5 per day
Other Small Game No open season on fox squirrels	No hunting before Sept. 1 or after Mar. 1; otherwise Game Zone 4 limits apply.	Game Zone 4 limits

(E) Broad River and Enoree River Waterfowl Management Areas

Deer Archery	Sept. 15 - Oct. 31	Game Zone 2 and 4 limits.
Small Game	Feb. 2 - Mar. 1	Game Zone 2 and 4 limits.
Raccoon	Feb. 2 - Mar. 1	Game Zone 2 and 4 limits.

(G) Francis Marion National Forest

During still gun hunts for deer there shall be no hunting or shooting from, on or across any road open to vehicle traffic. No buckshot on still gun hunts.	Total of 8 deer for all gun hunts on the Francis Marion.
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Hellhole WMA

Deer Archery	Sept. 15 through Sept. 30	2 deer per day, either-sex. Hogs - no limit.
Archery	Oct. 1 through Sat. before	2 deer per day, either-sex

	1 st still gun hunt.	Hogs no limit.
Archery	1 st Mon. following the 6 th Wambaw Dog Drive Hunt And continuing for 2 weeks.	2 deer per day, either-sex Hogs no limit.
Still Gun Hunts	Mon. - Sat. of the 4 th , 5 th , 6 th and 7 th Wambaw dog drives	2 deer per day, buck only, except either-sex Thur. - Sat. of each scheduled still gun hunt. Hogs no limit.
Dog Hunts (Shotguns only, no still gun hunting)	Up to 5 days following the last Hellhole Still Gun Hunt as published. All deer must be checked at Hellhole Check Station.	2 deer total per day, either-sex
Small Game No open season for fox hunting	No hunting before Sept. 1 or after Mar. 1; otherwise Game Zone 6 seasons apply. Dogs allowed during small game gun season only. Closed during scheduled deer and hog hunt periods.	Game Zone 6 bag limits except Quail- 8 per day
Hog Hunts	Sat. only in Jan. and Feb.	No limit

No more than 4 bay or catch dogs per party. No still or stalk hunting permitted. One shotgun per party(buck shot only). Pistols allowed. Hog hunters must have a hunting license and WMA permit, and are required to wear a hat, coat or vest of solid international orange color while hunting. Hogs may not be transported alive. Hogs taken must be brought to the check station and a data card completed.

Hog hunters must sign a register at Hellhole Check Station (Hwy. 41) upon entering and leaving Hellhole WMA.

Waterhorn WMA

Deer

Archery	Oct. 1 through 2 nd Sat. in Oct.	2 deer per day, either-sex, hogs no limit.
Muzzleloader	Open Mon. week of 3 rd Santee Dog Drive Hunt for a 2 week period.	2 deer per day, either-sex, hogs no limit.
Still Gun Hunts	Fri. and Sat. of 1 st and 2 nd Wambaw Dog Drive Hunt;	2 deer per day, buck only,
	Mon.-Sat. weeks of 1 st , 4 th , 5 th and 6 th Santee Dog Drive Hunt .	2 deer per day, buck only, except either-sex beginning Monday the week of the 5 th Santee dog drive hunt for 2

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weeks. Hogs no limit.

Small Game No open season for fox hunting.	No hunting before Sept. 1 or after Mar. 1; otherwise Game Zone 6 seasons apply. Dogs allowed during small game gun season only. Closed during scheduled deer and hog hunt periods.	Game Zone 6 bag limits except Quail- 8 per day
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Hog Hunts	Sat. only in Jan., Feb. and July	No limit.
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No more than 4 bay or catch dogs per party. No still or stalk hunting permitted. One shotgun per party (buck shot only). Pistols allowed. Hog hunters must have a hunting license and WMA permit, and are required to wear a hat, coat or vest of solid international orange color while hunting. Hogs may not be transported alive. Hogs taken must be brought to the check station and a data card completed.

Hog hunters must sign a register at Elmwood Check Station upon entering and leaving Waterhorn WMA.

Wambaw WMA

Deer

Tibwin Special Use Area is closed to hunting except for special hunts published by the SCDNR.

Still Gun Hunts	Sept. 1 - Jan. 1 except during scheduled dog drive hunts.	2 deer per day, buck only, hogs no limit.
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Dog Hunts (Shotguns only) Still gun hunts only East of Hwy 17 . Rifles allowed.	1 st Fri. and Sat. after Aug. 15; 2 nd Fri. and Sat. following the opening date on the WMA and Fri. and Sat. every 3 rd week thereafter through Jan. 1.	2 deer per day, buck only, except either-sex 2 nd Sat. in Nov. and 1 st Sat in Dec.
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Small Game No open season for fox hunting.	No hunting before Sept. 1 or after Mar. 1; otherwise Game Zone 6 seasons apply. Dogs allowed during small game gun season only. Closed during scheduled periods using dogs to hunt deer or hogs.	Game Zone 6 bag limits except Quail- 8 per day
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Northampton WMA

Deer

Still Gun Hunts	Sept. 1 through Jan. 1 except during scheduled dog drive hunts.	2 deer per day, buck only, hogs no limit.
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Dog Hunts (Shotguns only)	1 st Fri. and Sat. following the 2 nd Wambaw hunt and Fri. and Sat. every 3 rd week thereafter through Jan. 1	2 deer per day, buck only, except either-sex 2 nd Sat. in Nov. and 1 st Sat. in Dec.
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Small Game No open season on fox hunting.	No hunting before Sept. 1 or after Mar. 1; otherwise Game Zone 6 seasons apply. Dogs allowed during small game gun season only. Closed during scheduled periods using dogs to hunt deer or hogs.	Game Zone 6 bag limits except Quail- 8 per day.
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Santee WMA
Deer

Still Gun Hunts	Sept. 1 through Jan. 1 except during scheduled dog drive hunts.	2 deer per day, buck only, hogs no limit.
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Dog Drive Hunts (Shotguns only)	1 st Fri. and Sat. following the 1 st Northampton hunt and Fri. and Sat. every 3 rd week thereafter through Jan. 1.	2 deer per day, buck only, except either-sex 2 nd Sat. in Nov. and 1 st Sat. in Dec., hogs no limit.
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Small Game No open season for fox hunting.	No hunting before Sept. 1 or after Mar. 1; otherwise Game Zone 6 seasons apply. Dogs allowed during small game gun season only. Closed during scheduled periods using dogs to hunt deer or hogs.	Game Zone 6 bag limits. except Quail- 8 per day.
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(H) Moultrie

Deer	Total of 8 deer per season.
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Bluefield WMA (Adult/Youth Area)

Bluefield WMA is open only to youth 17 years of age or younger who must be accompanied by an adult at least 21 years of age. Adults will be allowed to carry a weapon and hunt.

Deer

Still Gun Hunts	Aug. 15 through Jan. 1	2 deer per day, buck only,
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(No buckshot) Wed. and Sat. ONLY except either-sex Wed. and Sat. only Sept. 15 - Jan. 1.

Small Game (No open season on fox squirrels) No hunting before Sept. 1 or after Mar. 1; otherwise Game Zone 6 seasons apply. No hunting during scheduled deer hunts. Game Zone 6 bag limits. Except quail 8 per day.

Greenfield WMA

Deer

Still Gun Hunts (No buckshot) Nov. 1 through Jan. 1 2 deer per day, buck only, except either-sex 1st Thurs. - Sat. in the season and beginning the last full week of the season through Jan. 1.

Small Game (No open season on fox squirrels) No hunting before Sept. 1 or after Mar. 1; otherwise Game Zone 6 seasons apply. Game Zone 6 bag limits. Except quail 8 per day.

Hall WMA

Deer

Archery (No dogs) Sept. 1 through Jan. 1 2 deer per day, buck only, except either-sex Sept. 15 - Jan. 1.

Small Game No small game season on Hall WMA.

North Dike WMA

Deer

Individual antlerless deer tags valid on days not designated as either-sex after Sept. 15.

Still Gun Hunts (No buckshot, no dogs) 1st Fri. after Aug. 15 through the last Sat. in Oct. 2 deer per day, buck only, except either-sex Oct. 1 - last Sat. in Oct.

Small Game (No open season on fox squirrels) No hunting before Sept. 1 or after Mar. 1; otherwise Game Zone 6 seasons apply. Game Zone 6 bag limits. Except quail 8 per day.

Porcher WMA

Deer

Archery (No dogs)	Sept. 1 through Jan. 1	2 deer per day, buck only, except either-sex Sept. 15 - Jan. 1.
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Small Game (No open season on fox squirrels)	Jan. 2 through Mar. 1	Game Zone 6 bag limits. Except quail 8 per day.
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Cross Station Site

Special Gun Hunts for youth and women.	No open season except hunters selected by drawing.	1 deer per day, either-sex
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(I) Santee Cooper WMA

Deer

No scouting season from Oct. 20 until opening of Nov. archery and muzzleloader season.	Total 8 deer per season, 4 deer per hunt period.
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Quality Deer Management Area - A point must be at least one inch long measured from the nearest edge of main beam to the top of the point.

Archery	Opens Mon. of 1 st full week in Oct. continuing for 2 weeks; Mon. - Sat. 1 st full week of Nov.	Total of 4 deer, either-sex. Only antlerless deer, spike bucks (2 points) and bucks with 4 or more points on one side are legal.
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Muzzle Loader	Mon. - Sat. 2 nd full week in Oct; Mon. - Sat. 1 st full week of Nov.	Total of 4 deer, either-sex Only antlerless deer, spike bucks (2 points) and bucks with 4 or more points on one side are legal.
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Still Gun Hunts	No open season except hunters selected by drawing.	Total of 3 deer, either-sex Only antlerless deer, spike bucks (2 points) and bucks with 4 or more points on one side are legal. 1 buck limit.
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Small Game	1 st Mon. after the closing of the State Waterfowl Season through Mar. 1 (East of Ferguson Landing Rd only).	Game Zone 6 Bag limits, except Quail- 8 per day.
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(J) Webb WMA

Deer Hunts (No dogs)	No open season except hunters selected by computer drawing.	2 deer, either-sex but only 1 buck.
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Quail Hunts	No open season except hunters selected by computer drawing.	10 quail per hunt period.
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Dove Hunting	Public dove field only. Days published annually.	Federal limits.
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Other Small Game No open season on fox squirrels	No hunting before Sept. 1 or after Mar. 1; otherwise Game Zone 11 seasons apply. No hunting on half-days scheduled for deer hunting.	Game Zone 11 bag limits.
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Hog Hunts No dogs.	1 st , 2 nd and 3 rd Tues. in Sept.	No limit.
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Hog Hunts with dogs (pistols only) Four dog limit per party.	1 st , 2 nd and 3 rd Thurs. in Sept. and 3 days beginning the 1 st Thurs. in March.	No limit.
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Hog hunters are required to wear hat, coat or vest of solid international orange color while hunting. Hunters must sign register upon entering and leaving the Webb WMA. No hogs may be taken alive from Webb WMA. Hogs taken must be brought to the Webb WMA check station and a data card completed. Hog hunters are permitted to camp at Bluff Lake on Webb WMA on nights prior to scheduled hog hunts only.

(K) Tillman Sandridge WMA

Deer Archery Only	14 hunting days beginning the last Friday in October	2 deer, either-sex
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Primitive Weapons	8 hunting days beginning the 2nd Fri. in Dec.	2 deer, buck only, except either-sex on Fri. and Sat.
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Small Game No open season on	No hunting before Sept. 1 or after Mar. 1; otherwise Game	Game Zone 11 bag limits.
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fox squirrels. Zone 11 seasons apply. No Small game hunting during scheduled deer hunt periods.

(M) Victoria Bluff WMA

Archery (No dogs)	Three hunting day periods beginning the 1st Thurs. in Oct., the 2 nd Thurs. in Oct., the 3 rd Thurs. in October, the 4 th Thurs. in Oct.; Eight hunting days beginning the 1 st Friday in November and eight hunting days beginning the 2 nd Friday after Thanksgiving.	3 deer per hunt period, either-sex.
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Small Game No open season on fox squirrels.	No hunting before Oct. 15 or after Feb. 1; otherwise Game Zone 11 seasons apply. No Small game hunting during scheduled deer hunt periods. Shotguns only, shot no larger than no. 2.	Game Zone 11 bag limits.
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(N) Bear Island WMA

All hunters must sign in and out at the Bear Island Office. Hunting in designated areas only.

Deer

Archery	Oct. 1 - Oct. 10	3 deer, either-sex. Hogs.
Still Gun Hunts (No dogs) Rifles only.	Nov. 1 - Nov. 10	3 deer, either-sex, only 1 buck. Hogs.
Quail	Quail hunting Tue. only Feb. 1 - Mar. 1	Game Zone 11 bag limits.
Other Small Game No open season on fox squirrels.	Feb. 1 - Mar. 1 Wed. and Sat. Only	Game Zone 11 bag limits.
Raccoon/Opossum	Feb. 1 - Mar. 15 Wed. and Fri. Nights Only	Game Zone 11 bag limits.

(O) Lewis Ocean Bay WMA

318 FINAL REGULATIONS

Deer

Total of 5 deer for all hunts combined.

Still hunting only, no deer dogs, no buckshot, no hunting or shooting from or on any roads open to vehicular traffic. Hunting from horseback is prohibited.

Archery	1st. Wed. - Sat. after Sept. 15	1 deer per day, buck only.
	1 st Wed. - Sat. in Oct., 2 nd Wed.-Sat. in Oct. 4 th Wed. - Sat. in Oct.	1 deer per day, either-sex
Archery and Muzzleloader	Last Wed. in Oct. - 1 st Sat. in Nov. 2 nd Wed. - Sat. in Nov.	1 deer per day, either-sex.
Still Gun Hunts	Last Wed. in Nov. - 1 st Sat. in Dec. 2 nd Wed. - Sat. in Dec.	1 deer per day, buck only.
Small Game No Fox Squirrels	Jan. 1-Mar. 1	Game Zone 7 bag limits.

(P) Pee Dee Station Site WMA

Deer

Total of 3 for all hunt periods combined.

Still hunting only, no deer dogs, no buckshot, no hunting or shooting from or on any roads open to vehicular traffic. The scouting seasons are 3-day periods on Saturday through Monday immediately proceeding hunt periods.

Archery	1 st Tue. - Sat. in Oct.	1 deer per day, either sex
Archery and Muzzleloader	3rd. Tue.- Sat. in Oct. 1st. Tue.- Sat. in Nov.	1 deer per day, either sex
Small Game	Sat. after Thanksgiving - last Wed. and Sat. in Feb., Wed. and Sat. Only.	Game Zone 10 limits.

(Q) Aiken Gopher Tortoise WMA

During still gun hunts for deer, there shall be no hunting or shooting from, on or across any road open to vehicular traffic.

Deer Hunts
(No dogs)

Total 3 deer
Not to include more than

2 bucks.

Archery (No dogs)	Oct. 1 - Jan. 1	1 deer per day, buck only, except either-sex on Game Zone 3 either-sex days as specified in Reg. 4.2.
Still Gun Hunts (No buckshot)	Oct. 1 - Jan. 1	1 deer per day, buck only, except either-sex on Game Zone 3 either-sex days as specified in Reg. 4.2.
Small Game No open season on fox Squirrels	Thanksgiving Day - Mar. 1	Game Zone 3 bag limits.

(R) Santee Coastal Reserve WMA

Deer Hunts (No dogs) Archery (No dogs)	1 st full week in Nov.; last full week in Nov.	2 deer per day, either-sex. Hunting on mainland only.
Quail	Wed. and Sat. only, 1 st Wed. after January 20 - last Wed. on or before Feb. 15.	Game Zone 6 bag limits.
Raccoon/Opossum	Tues. and Fri. nights, 1st Wed. after Jan. 20 - Mar. 1.	Game Zone 6 bag limits.
Other Small Game No open season on fox Squirrels	Wed. and Sat. only, 1 st Wed. after Jan. 20 - Feb. 15.	Game Zone 6 bag limits.

**(S) Other Small WMAs
Aiken, Calhoun, Lexington and Richland Counties**

Deer Still Gun Hunts and Archery (No dogs)	No hunting before Sept. 1 or after Jan. 1.	Game Zone 3 bag limits. Buck only, except on Game Zone 3 either-sex days as specified in Reg. 4.2.
Small Game	No hunting before Sept 1 or after Mar. 1; otherwise Game	Game Zone 3 bag limits.

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Zone 3 seasons apply.

Chesterfield, Kershaw, & Marlboro Counties

Archery Only Hunts

Sept. 15 - 30

Total of 3 deer for all archery hunts, buck only, 2 per day.

Still Gun Hunts
and Archery
(No Dogs)

Oct. 1 - Jan 1

Total 10 deer for all gun hunts, 2 per day, buck only except on Game Zone 5 either-sex days as specified in Reg. 4.2. Limit of 10 may not include more than 5 bucks. Male deer required 2 inches of visible antler above the hairline to be legal. Male fawns (button bucks) are considered antlerless deer, legal only during either-sex hunts; however, they apply toward the buck limit.

Small Game

No hunting before Sept. 1 or after Mar. 1; otherwise Game Zone 5 limits apply.

Game Zone 5 bag limits.

Darlington, Lee & Sumter Counties

Archery

Sept. 1 - Jan. 1

Total 5 deer per season, buck only, except on Game Zone 8 either-sex days as specified in Reg. 4.2.

Still Gun Hunts
(No dogs)
No buckshot.

Sept. 15 - Jan. 1

Total 5 deer per season, buck only except on Game Zone 8 either-sex days as specified in Reg. 4.2.

Small Game

No hunting before Sept. 1 or after Mar. 1; otherwise Game Zone 8 seasons apply.

Game Zone 8 bag limits

Dillon County

Archery

Sept. 1 - Jan. 1

Total 5 deer per season, buck only, except on Game Zone 7 either-sex days as specified in

Reg. 4.2.

Still Gun Hunts
(No dogs)
No buckshot.

Sept. 15 - Jan. 1

Total 5 deer per season, buck only except on Game Zone 7 either-sex days as specified in Reg. 4.2.

Small Game

No hunting before Sept. 1 or after Mar. 1; otherwise Game Zones 7 seasons apply.

Game Zones 7 and 8 bag limits

(U) Manchester State Forest WMA

Deer

Total of 5 deer per season for all hunts.

Deer must be checked at check station.

Archery

Sept. 15 - 4th Sat. in Sept.

1 per day, either-sex

Archery and
Muzzleloader

4th Mon. in Sept. - last Sat.

1 per day , buck only

Fri. prior to last Sat. in Sept.

1 deer per day, either-sex

Dog Hunts

No open season except for clubs selected by computer drawing.

10 deer per day per club, 1 per day per person. Buck only, except by tags issued the day of the hunt.

Still Gun Hunts
(No Dogs)

st Mon. - Sat. in Oct.
2nd Mon. - Sat. in Oct.
3rd Mon. - Fri. in Oct.
4th Tues. - Sat. in Oct.
5th Tues. - Thur. in Oct.
1st Tues. - Fri. in Nov.
2nd Tues. - Thur. in Nov.
3rd Tues. - Sat. in Nov.
4th Mon. - Fri. in Nov.

1 per day, buck only except on either-sex hunts published annually.

Quail
(Except Bland Tract)

Wed. and Sat. only, 1st Sat. after Thanksgiving - last Wed. and Sat. in Feb.

Game Zone 8 bag limits.

Quail
(Bland Tract)
Quail hunters must pick up and return data cards at access points.

Designated Wed. and Sat. within Game Zone 8 season, in Dec., Jan., and Feb. Shotguns must be plugged so as not to hold more than

Game Zone 8 bag limits.

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	3 shells.	
Squirrel and Rabbit	Thanksgiving Day - Mar. 1	Game Zone 8 bag limits.
Raccoon and Fox	Thanksgiving Day - 2 nd Sat. in Mar.	Raccoon 3 per party per night, Fox no limit during gun season.
Hogs No dogs.	Hogs may be taken only incidental to deer hunts.	One per person per day.

(V) Sand Hills State Forest WMA

Hunting by the general public closed during scheduled field trials on the Sand Hills State Forest Special Field Trial Area. Hunting allowed during permitted field trials on the Sand Hills State Forest Special Field Trial Area in compliance with R.123-96.

Deer Archery	Sept. 15 - Jan. 1	Total of 3 deer, 2 per day, either-sex.
Still Gun Hunts (No dogs)	Oct. 1 - Jan. 1	Total of 10 deer, 2 per day, buck only except either-sex on Game Zones 5 and 8 either-sex days specified in Reg. 4.2. No more than 5 bucks.
No man -drives on scheduled either-sex days.		
Small Game	No hunting before Sept. 1 or after Mar. 1; otherwise Game Zones 5 and 8 seasons apply. No daytime fox hunting from Sept. 15 - Jan. 1.	Game Zones 5 and 8 limits.

(W) Marsh Furniture WMA

Deer	Total of 3 deer for all hunts combined
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The scouting season is the last Mon. - Sat. in Sept.

Still hunting only, no deer dogs, no buckshot, no hunting from vehicles or from or on roads open to vehicular traffic. No bay or catch dogs allowed for hog hunting.

Archery (No Dogs)	1 st Mon. - Sat. in Oct.	1 deer per day, either-sex Hogs no limit.
Archery and Muzzleloader	2 nd Mon. - Sat. in Oct. 3 rd Mon. - Sat. in Oct.	1 deer per day, either-sex Hogs no limit.

(No dogs)

Still Gun Hunts	4 th Mon. - Sat. in Oct.	1 deer per day, buck only
Last Mon. in Oct. - 1st Sat.	Hogs no limit. in Nov.	

Small Game Seasons	Thanksgiving - Mar. 1	Game Zone 10 bag limits.
Open only for rabbit, squirrel, opossum, quail, and woodcock only	Wed. - Sat. only	

(Z) Donnelley WMA

Deer

All hunters must sign in and out at the check station. Hunting in designated areas only. Scouting season for archery only on the day before season opens. Hogs can be taken during all deer hunts.

Archery (no dogs)	Oct. 1 - Oct. 5 Nov. 1 - Nov. 5 Dec. 1 - Dec. 5	Total 4 deer per season, either-sex, no more than 2 bucks, antlered bucks must have a minimum 4 points on one side or spikes (2 points). Button bucks count towards buck limit. Hogs-no limit.
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Still Gun Hunts	No open season except for hunters selected by computer drawing.	3 deer per hunt period, 3 does or 1 buck and 2 does, antlered bucks must be spikes or have a minimum 4 points on one side. Button bucks count towards buck limit.
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Small Game No open season for fox squirrels.	Wed. only Dec. 6 - Jan. 31 Wed. and Sat. Feb. 1 - Mar. 1 seasons.	Game Zone 11 Bag Limits
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Raccoon and Opossum	Tues. Nights only Dec. 6 - Jan. 31 Tues. and Fri. Nights Feb. 1 - Mar. 1	Raccoon - 3 per party per night, opossum - no limit.
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Hog Hunts with dogs (Pistols Only)	1 st Thurs. - Sat. in March	No limit.
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Hog hunters are required to wear a hat, coat or vest of international orange color while hunting. Hogs may not be taken from Donnelley alive and all hogs harvested must be checked at the check station. No more than 4 dogs per party.

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(AA) Little Pee Dee River Complex WMA

Includes Little Pee Dee River HP, Tilghman HP, Dargan HP, and Ward HP in Horry and Marion counties. This also includes the Upper Gunter's Island and Huggins tracts in Horry Co. which are part of Dargan HP. Still hunting only, no deer dogs, no buckshot, no hunting from vehicles or watercraft, or from or on any roads open to vehicular traffic.

Deer		Total of 3 deer for all hunts and hunt periods combined.
Archery	Sept. 15 - last Sat. in Sept.	1 deer per day, buck only
Archery	Oct. 1 - 3 rd Sat. in Oct.	1 deer per day, either-sex
Archery and Muzzleloader	4 th Mon. in Oct. - the following Sat.	1 deer per day, buck only,
	1 st Mon. in Nov. - the following Sat.	1 deer per day, either-sex
Still Gun Hunts	Last Mon. in Nov. - the following Sat.	1 deer per day, buck only,
Small Game	Thanksgiving Day - Mar. 1	Game Zones 7 and 10 Bag Limits.
No open season for fox squirrels	No small game hunting during the week of still gun hunting for deer.	

(BB) Great Pee Dee River WMA

Deer Hunts Total 3 deer for all hunts.

For big game hunting, access is restricted from two hours before sunrise to two hours after official sunset. All individuals are required to sign in and out at the entrance. Still hunting only, no deer dogs, no buckshot, no hunting from motor vehicles or boats, no hog dogs.

Archery	1 st Mon. in Oct. - the following Sat., 2 nd Mon. in Oct. - the following Sat.	1 deer per day, either-sex, hogs no limit.
Archery and Muzzleloader	4 th Mon. in Oct. - the following Sat.	1 deer per day, either-sex, hogs no limit.
Still Gun Hunts	1 st Mon. in Nov. - the following Sat.	1 deer per day, buck only.
Gray Squirrels	Thanksgiving Day - Mar. 1st. No small game hunting during deer hunt periods.	Game Zone 8 bag limits.

Woodcock	Federal Seasons.	Federal limits.
Small Game	No open season on other small game species.	
Special Hog Hunt	1st Mon. in Dec. - the following Sat.	2 hogs per person per hunt period.
	2 nd Mon. in Dec. - the following Sat.	

(CC) Hickory Top WMA

Deer Archery (No Dogs)	Sept. 1 through Jan. 1.	Total 8 deer per season. 2 deer per day, either-sex Sept. 15 - Jan. 1.
Muzzleloader (No Dogs)	First Monday in November through Sat. before Thanksgiving	2 deer per day, either-sex.
Small Game	No hunting before Sept. 1 or after Mar. 1; otherwise Game Zone 9 seasons apply.	Game Zone 9 bag limits. Except quail 8 per day.

(DD) Palachucola WMA

Deer Hunts

Deer hunting or shooting will not be allowed from or on roads open to vehicle traffic.

Archery (No Dogs)	Ten hunting days beginning the last Wed. in Sept.	3 deer, either-sex.
Still Gun Hunts (No dogs)	No open season except for hunters selected by computer drawing.	3 deer, either-sex but only 1 buck.
Small Game (No open season for fox squirrels or quail)	No hunting before Sept. 1 or after Mar. 1; otherwise Game Zone 11 seasons apply.	Game Zone 11 bag limits.
No small game hunting during scheduled deer hunts.		
Hog Hunts No dogs	1 st , 2 nd and 3 rd Tues. in Sept.	No limit.

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Hog Hunts with Dogs (Pistols) Four dog limit per party.	1 st , 2 nd and 3 rd Thurs. in Sept. and 3 days beginning the 1st Thurs. in March.	No limit.
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Hog hunters are required to wear a hat, coat or vest of solid international orange color while hunting. Hunters must sign register at Webb WMA upon entering and leaving the Palachucola WMA. No hogs may be taken alive from Palachucola WMA. Hogs taken must be brought to the Webb WMA check station and a data card completed. Hog hunters are allowed to camp at Bluff Lake on the Webb WMA on nights prior to scheduled hog hunts ONLY.

(EE) St. Helena Sound Heritage Preserve WMA

Deer: Hunting and camping by special permit.

Archery Hunts
(No dogs)

Otter Island	Nov. 1 - Nov. 30 By special permit.	2 deer per season, 1 deer per day, either-sex. Hogs.
Ashe, Beet, Warren, Big, South Williman	Oct. 1 - Jan. 1	3 deer per season, 1 deer per day, either-sex. Hogs.

(FF) Waccamaw River Heritage Preserve WMA

Deer	Total 2 deer per season
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Still hunting only, no deer dogs, no buckshot, no hunting from vehicles or from or on roads open to vehicular traffic.

Archery	2 nd Mon. - Sat. in Oct. 3 rd Mon. - Sat. in Oct	1 deer per day, either-sex.
Archery and Muzzleloader	4 th Mon. - Sat. in Oct. 1 st Mon. - Sat. in Nov.	1 deer per day, either-sex.
Still Gun Hunts	Last Mon. in Nov. - 1st Sat. in Dec.	1 per day, buck only
Small Game Seasons: Season open only for Gray squirrel and woodcock. No hunting small game during scheduled deer hunt periods.	Thanksgiving Day - Mar. 1	Game Zone 7 bag limits

Raccoons 1st Wed. in Dec. - last Wed. 3 per party per night.
in Feb. Wed. nights only.

(GG) McBee WMA

Archery Sept. 15 - Sat. after Total of 3, 2 per day,
Deer Hunts Thanksgiving. either-sex.

Still Gun Hunts Oct. 1 - Sat. after Total of 10, 2 per day, buck only
(No Dogs) Thanksgiving. except on either-sex on Fridays
and Saturdays during still gun hunt
season. Total not to include more
than 5 bucks.

Quail No open season except 10 per day
hunters selected by drawing.

Other Small Game No hunting before Mon. Game Zone 5 limits.
No small game hunting following the 2nd Sat. in
during scheduled deer Jan. or after Mar. 1;
hunting periods. otherwise Game Zone 5 seasons.

(HH) Canal WMA

Hunters must pick up and return data cards at access points. Shotguns must be plugged so as not to hold more than 3 shells.

Quail 1st Wed. after opening day of Total 8 per day.
quail season and every other
Wed. thereafter until Mar. 1.

(II) Cartwheel Bay WMA

Deer Hunts Total 3 deer for all hunts combined.

Archery hunting only, no dogs, no hunting from or on roads.

Archery Sept. 15 - 1st Sat. in Oct. 1 deer per day, buck only

2nd Mon. in Oct. - 1st Sat. in 1 deer per day, either-sex
Nov.

Small Game No hunting before Nov. 1 Game Zone 7 bag limits
(No small game, or after Mar. 1; otherwise
hunting during Game Zone 7 bag limits.
Scheduled deer
hunt periods.)
No open season on

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fox squirrels.

(JJ) Longleaf Pine WMA

Deer

Total 2 deer for all hunts combined.

Still hunting only, no deer dogs, no buckshot, no hunting from vehicles or from or on any roads open to vehicular traffic.

Archery	Sept. 15 - 1 st Sat. in Oct.	1 deer per day, either-sex
Archery and Muzzleloader	2 nd Mon. in Oct. - last Sat. in Oct.	1 deer per day, either-sex
Still Gun Hunts	Last Mon. in Oct. - 3 rd Sat. in Nov..	1 deer per day, buck only
Small Game (No small game hunting during scheduled deer hunt periods). No open season on fox squirrels.	Thanksgiving Day - Mar. 1	Game Zone 8 bag limits.

(KK) Bucksport WMA

Deer

Total 5 deer per season

No hunting from motorized boats.

Archery	Sept. 15 - last Sat. in Sept.	1 deer per day, buck only
	2 nd Mon. in Oct. - 3 rd Sat. in Oct.	1 deer per day, either-sex
Archery and Muzzleloader	4 th Mon. in Oct. - 3 rd Sat. in Oct.	1 deer per day, buck only
Still Gun Hunts (No Dogs) No buckshot	4 th Mon. in Nov. - 1 st Sat. in Dec.	1 deer per day, buck only
Small Game Gray Squirrels (No small game hunt- ing during scheduled deer hunt periods).	Thanksgiving Day - Mar. 1	Game Zone 7 bag limits
Woodcock	Federal Seasons	Federal bag limits.
Raccoon	Wed. nights only, 1 st Wed. in Dec. -	3 per party per night

last Wed. in Feb.

Other Small Game
 No open season on fox
 squirrels or other small game.

(LL) Sandy Island WMA:

Data card required for hunting access. Hunting from vehicles prohibited.

Deer Total 3 deer per season not
 to include more than 1 buck.

Archery Only Oct. 1 - Nov. 30 1 deer per day, either-sex.
 Hogs and coyotes no limit.

(MM) Hatchery WMA

Deer Archery Sept. 1 through 2nd Sat. Total of 8 deer per season,
 in Nov. 2 per day, buck only, except
 either-sex Sept. 15 - 2nd Sat.
 in Nov.

(NN) Dungannon WMA

Deer Hunts Total 8 deer per season.
 (No dogs)

Archery Oct. 1 through Dec. 1 2 deer per day, either-sex.
 (No dogs)

(OO) Santee Dam WMA

Deer Total of 8 deer per season.

Archery Sept. 1 through Jan. 1 2 deer per day, buck only,
 (No dogs) except either-sex Sept. 15 -
 Jan. 1. Hogs no limit.

Muzzleloader Sept. 15 through Jan. 1 2 deer per day, either-sex.
 Hogs no limit.

Small Game Jan. 2 through Mar. 1. Game Zone 9 bag limits.
 Shotguns only, no open Except quail 8 per day.
 season on fox squirrels.

(PP) Rock Hill Blackjacks HP WMA

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Deer Total of 3 deer per season.

Archery Sept. 15 - 30; Mon. after 2 deer per day, either-sex
(No dogs) Thanksgiving Day - Jan. 1.

Small Game No small game hunting.

(QQ) Oak Lea WMA

Total 10 deer per season.

Archery Sept. 15 through Sept. 30. 2 deer per day, either-sex.

Still Gun Hunts No open season except 2 deer per day, either-sex.
hunters selected by drawing. Total 10 deer per hunt party.

Small Game Jan. 2 through Mar. 1 Game Zone 9 limits.
No open season on quail.

(RR) Lynchburg Savannah Heritage Preserve WMA

Small Game Only No hunting before Sept. 1 Game Zone 7 limits
No open season on or after Mar. 1; otherwise
fox squirrels. Game Zone 7 seasons.

WILDLIFE MANAGEMENT AREA REGULATIONS

General

2.1 Except as provided in these regulations, it is unlawful to hunt or take wildlife on areas designated by the South Carolina Department of Natural Resources (SCDNR) Wildlife Management Area (WMA) lands.

2.2 Entry onto WMA land is done wholly and completely at the risk of the individual. Neither the landowner or the State of South Carolina nor the South Carolina Department of Natural Resources accepts any responsibility for acts, omissions, or activities or conditions on these lands which cause or may cause personal injury or property damage.

2.3 Entry onto WMA land constitutes consent to an inspection and search of the person, game bag or creel.

2.4 It is unlawful for anyone to hunt or take wildlife on WMA land unless an individual is in possession of a valid South Carolina license; a valid WMA permit; and other applicable federal or state permits, stamps, or licenses.

2.5 No Sunday hunting is permitted on any WMA lands.

2.6 On all WMA lands, baiting or hunting over a baited area is prohibited.

As used in this section, "bait" or "baiting" means the placing, depositing, exposing, distributing, or scattering of shelled, shucked, or unshucked corn, wheat, or other grain or other food stuffs to constitute an attraction, lure, or enticement to, on, or over any area. "Baited area" means an area where bait is directly or indirectly placed, deposited, exposed, distributed, or scattered and the area remains a baited area for ten (10) days following the complete removal of all bait.

2.7 On WMA lands construction or use of tree stands is prohibited if the tree stand is constructed by driving nails or other devices into trees or if wire is wrapped around trees. Other tree stands and temporary screw-in type climbing devices are permitted provided they are not permanently affixed or embedded in the tree.

2.8 On WMA lands any hunter younger than sixteen (16) years of age must be accompanied by an adult (21 years or older) who is validly licensed and holds applicable permits, licenses or stamps for the use of WMA lands. Sight and voice contact must be maintained.

2.9 Notwithstanding any other provision of these regulations, the Department may permit special events on any day during the regular hunting season.

2.10 No person may release or attempt to release any animal onto Department-owned WMA lands without approval from the Department.

2.11 While hunting on Department-owned WMA's, no person may consume or be under the influence of intoxicants, including beer, wine, liquor or drugs.

WEAPONS

3.1 On WMA lands hunters may use any shotgun, rifle, long bow or hand gun except that specific weapons may be prohibited on certain hunts. Small game hunters may possess or use shotguns with shot no larger than No. 2 or .22 rimfire rifles or primitive muzzle-loading rifles of .40 caliber or smaller. Small game hunters may not possess or use buckshot, slugs or shot larger than No. 2. Blow guns, dart guns or drugged arrows are not permitted. Small game hunters using archery equipment must use small game tips on the arrows (judo points, bludgeon points, etc.). The use of crossbows during any archery only season is unlawful except as allowed by 50-11-565.

3.2 For Special Primitive Weapons Seasons, primitive weapons include bow and arrow and muzzle-loading shotguns (20 gauge or larger) and rifles (.36 caliber or larger) with open or peep sights or scopes, which use black powder or a black powder substitute that does not contain nitro-cellulose or nitro-glycerin components as the propellant charge; ignition at the breech must be by the old type percussion cap which fits on a nipple or by flintstone striking frizzen or a "disk" type ignition system. The use of in-line muzzleloaders and muzzleloaders utilizing a shotgun primer in a "disk" type ignition system is permitted. During primitive weapons season, no revolving rifles are permitted. Crossbows may be used on WMA and private lands only during firearms and muzzleloader seasons for deer and bear.

3.3 On WMA lands, big game hunters are not allowed to use military or hard-jacketed bullets or .22 rimfire rifles. Buckshot is prohibited during still hunts for deer or hogs on the Santee Coastal Reserve, Bucksport, Pee Dee Station Site, Lewis Ocean Bay, Great Pee Dee, Crackerneck, Webb Center, Marsh Furniture, Manchester State Forest, Palachucola, Waccamaw River Heritage Preserve, Donnelley, Francis Marion, and Moultrie WMA lands.

3.4 On DNR-owned WMA' during periods when hunting is permitted, all firearms transported in vehicles must be unloaded. On the Francis Marion Hunt Unit during deer hunts with dogs, loaded shotguns may be transported in vehicles. Any shotgun, centerfire rifle or rimfire rifle or pistol with a shell in the chamber or magazine or muzzleloader with a cap on the nipple or flintlock with powder in the flash pan is considered loaded.

3.5 No target practice is permitted on Department-owned WMA lands except in specifically designated areas.

3.6 On WMA lands during still gun hunts for deer or hogs there shall be no hunting or shooting from, on or across any road open to vehicle traffic. During any deer or hog hunt there shall be no shooting from, on or across any railroad right-of-way or designated recreational trail on U.S Forest Service or S.C. Public Service Authority property.

DEER

4.1 On WMA lands with designated check stations, all deer bagged must be checked at a check station. Deer bagged too late for reporting one day must be reported the following day. Unless otherwise specified by the department, only bucks (male deer) may be taken on all WMA lands. Male deer must have antlers visible two (2) inches above the hairline to be legally bagged on "bucks only" hunts. Male deer with visible antlers of less than two (2) inches above the hairline must be taken only on either-sex days or pursuant to permits issued by the department. On WMA lands, man drives for deer are permitted between 10:00 a.m. and 2:00 p.m. only, except that no man drives may be conducted on days designated by the department for taking deer of either sex. On WMA lands, drivers participating in man drives are prohibited from carrying or using weapons. On WMA lands, in Game Zones 1, 2 and 4, man drives will be permitted on the last four (4) scheduled either-sex days. A man drive is defined as an organized hunting technique involving two (2) or more individuals whereby an attempt is made to drive game animals from cover or habitat for the purpose of shooting, killing, or moving such animals toward other hunters.

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4.2 Deer either-sex days for gun hunts are as follows:

Game Zone 1: Nov. 2 - 3, 9 - 10.

Game Zones 2 and 4: Oct. 19 - 20, 26 - 27, Nov. 2 - 3, 9 - 10, 16 - 17, Dec. 14 - 15, 21 - 22, 28 - 29, Jan. 1.

Game Zones 3, 6 and 11: Oct. 5 - 6, 12 - 13, 20, 27, Nov. 3, 17, 24, Dec. 22, 29, Jan. 1.

Game Zone 5: Kershaw/Chesterfield counties - Oct. 5 - 6, 12 - 13, 19 - 20, 26 - 27, Nov. 2 - 3, Dec. 28 - 29, Jan. 1. Marlboro County - Oct. 6, Nov. 23 - 24.

Game Zone 7: Dillon County - Oct. 6, Nov. 23 - 24. Horry County - Oct. 5 - 6, 12 - 13, Nov. 23 - 24.

Game Zones 8, 9, and 10: Oct. 5 - 6, 12 - 13, Nov. 2 - 3, 16 - 17, 23 - 24, Dec. 21 - 22.

DOGS

5.1 On all WMA lands, dogs may be used for small game hunting unless otherwise specified.

5.2 On all WMA lands in Game Zones 2 and 4, beagles may not be used for rabbit hunting during still gun hunts for deer. Beagles may be used from the close of the big game season until the close of the rabbit season. Beagles may be trained for rabbit hunting from September 1 through September 30 (no guns).

5.3 On WMA lands, dogs may be used for hunting foxes, coyotes, raccoons, bobcats or opossums only between thirty (30) minutes after official sunset and 30 minutes before official sunrise.

5.4 The Department may permit deer hunting with dogs on WMA areas not located in Game Zones 1, 2, and 4. For the purposes of tracking a wounded deer, a hunter may use one dog which is kept on a leash.

5.5 Dogs may be used to hunt bear in on WMA lands in Game Zone 1 during the special bear season.

VEHICLES

6.1 On all WMA lands, no hunter may shoot from a vehicle except that paraplegics and single or double amputees of the legs may take game from any stationary motor driven land conveyance or trailer which is operated in compliance with these rules. For purposes of this regulation, paraplegic means an individual afflicted with paralysis in the lower half of the body with involvement of both legs, usually due to disease of or injury to the spinal cord.

6.2 On Department-owned WMA lands, motor driven land conveyances must be operated only on designated roads or trails. Designated roads and trails on Forest Service lands are those designated with either a name and/or numbered sign. On Forest Service land ATV's can be used only on designated ATV or motorcycle trails. Unless otherwise specified, roads or trails which are closed by barricades and/or signs, either permanently or temporarily, are off limits to motor-driven land conveyances.

6.3 It is unlawful to obstruct travel routes on Department-owned WMA lands.

VISIBLE COLOR CLOTHING

7.1 On all WMA lands during the gun and muzzleloader hunting seasons for deer, all hunters must wear either a hat, coat, or vest of solid visible international orange, except hunters for dove and duck are exempt from this requirement while hunting for those species.

CAMPING

8.1 Camping is not permitted on DNR-owned WMA lands except in designated camp sites.

TRAPPING

9.1 Trapping on WMA lands is not permitted.

WATERFOWL & DOVE REGULATIONS

10.1 Unless specially designated by the Department as a Wildlife Management Area for Waterfowl or a Wildlife Management Area for Dove, all Wildlife Management Areas are open during the regular season for hunting and taking of migratory birds except where restricted to special small game seasons within the regular migratory bird framework.

10.2 The Department may designate sections of Wildlife Management Areas and other lands and waters under the control of the Department as Designated Waterfowl Management Areas or Designated Dove Management Areas. All laws and regulations governing Wildlife Management Areas apply to these special areas. In addition, the Department may set special shooting hours, bag limits, and methods of hunting and taking waterfowl and doves on those areas. All State and Federal migratory bird laws and regulations apply. Regulations pertaining to the use of Dove Management Areas will be filed annually.

10.3 On areas where blinds are not provided, only temporary blinds of native vegetation may be constructed, and once vacated become available for others.

10.4 On Designated Waterfowl Areas, no species other than waterfowl may be taken during waterfowl hunts. On Designated Dove Management Areas no species other than doves may be taken during dove hunts. Only dove hunting is allowed at Lake Wallace.

10.5 No fishing is permitted in any Category 1 Designated Waterfowl Management Area during scheduled waterfowl hunts.

10.6 The Clarks Hill Waterfowl area is closed to hunting except for waterfowl hunting and other special hunts as designated by the SCDNR.

10.7 Santee Cooper WMA is closed to hunting from October 20 until March 1, except for special hunts designated by the SCDNR.

10.8 Sandy Beach Waterfowl Area is closed to hunting during the period 16 Nov.-01 Mar. except for special hunts designated by the Department.

10.9 Broad River Waterfowl Management Areas is closed to hunting access during the period 01 Nov.-01 Feb. except for special hunts designated by the Department.

10.10 Impoundments on Bear Island, Donnelly, Samworth, Santee Coastal Reserve and Santee Delta WMAs are closed to all public access during the period 01 Nov.-20 Jan. except during special hunts designated by the Department. All public access during the period 21 Jan.-01 March is limited to designated areas.

10.11 Potato Creek Hatchery Waterfowl Area is closed to all access one week prior to opening of waterfowl season through January 31, except for scheduled waterfowl hunts. No fishing one week prior to opening of waterfowl season through January 31. All hunters must enter and leave the Potato Creek Hatchery Waterfowl Area through the designated public landing on secondary road 260 and complete a data card and deposit card in receptacle prior to leaving the area. Hunting hour are from 30 minutes before legal sunrise to legal sunset (including the special youth hunt). Hunters may not enter the area prior to 3:00 a.m. on hunt days. Each hunter is limited to twenty-five nontoxic shot shells (steel, bismuth/tin, bismuth, tungsten-polymer, tungsten-iron) per hunt and no buckshot allowed. No airboats are allowed for hunting or fishing and no hunting from secondary road 260.

10.12 Hunters may not enter Hatchery WMA prior to 3 AM and must leave the area by 1 PM. Each hunter is limited to twenty-five nontoxic shot shells (steel, bismuth/tin, bismuth, tungsten-polymer, tungsten-iron) per hunt and no buckshot allowed. Hunters must enter and leave Hatchery WMA through the Hatchery Landing. No airboats are allowed in the Hatchery WMA for hunting or fishing during the period 15 Nov.-20. Jan. No fishing allowed during scheduled waterfowl hunts.

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10.14 The Francis Marion National Forest, Crackerneck WMA, Palachucola, Tillman Sand Ridge WMA and Webb Wildlife Center are open during special small game seasons within the regular migratory bird seasons; Fant's Grove WMA is open AM only on Wednesdays and Saturdays during the regular migratory bird seasons.

10.15 Category I Designated Waterfowl Areas include Beaverdam, Broad River, Santee Cooper, Sandy Beach, Samworth, Santee Coastal Reserve, Santee-Delta, Bear Island, and Donnelley Wildlife Management Areas. Hunting in Category I Designated Waterfowl Areas is by special permit obtained through annual computer drawing.

10.16 Category II Designated Waterfowl Areas include Biedler Impoundment, Lake Cunningham, Russell Creek, Monticello Reservoir, Parr Reservoir, Duncan Creek, Dunaway, Dungannon, Enoree River, Moultrie, Hatchery, Hickory Top, Turtle Island, Little Pee Dee River Complex (including Ervin Dargan, Horace Tilghman), Great Pee Dee River, Oak Lea, Potato Creek Hatchery, Samson Island Unit (Bear Island), Tyger River, Marsh, and Tibwin Waterfowl Management Areas. Hunting on Category II Designated Waterfowl Areas is in accordance with scheduled dates and times.

DESIGNATED WATERFOWL AREAS

Area	Open dates inclusive	Bag Limits
Biedler Impoundment	Sat. AM only during regular season.	Federal Limits
Bear Island	Hunters selected by drawing during regular season.	Federal Limits
Beaverdam	Hunters Selected by drawing during regular season.	Federal Limits
Broad River	Hunters selected by drawing.	Federal Limits
Dunaway	Sat. AM only during regular season.	Federal Limits
Duncan Creek	Sat. AM only during regular season.	Federal Limits
Dungannon	Wed. AM only during regular season.	Federal Limits
Enoree River	Sat. AM only during regular season.	Federal Limits
Hatchery	Sat. AM only and until sunset on the last Sat. of the regular waterfowl season.	Federal Limits
Hickory Top	Federal waterfowl seasons.	Federal Limits

Lake Cunningham	Wed. AM only during during the regular season.	Federal Limits
Marsh	Wed. and Sat. AM only during the regular season.	Federal Limits
Monticello	Wed. and Sat. AM only during Reservoir during the regular season.	Federal Limits
Moultrie	Mon. through Sat. during regular season.	Federal Limits
Oak Lea WMA	Wed. AM only during regular season after Jan. 1.	Federal Limits
Parr Reservoir	Mon. through Sat. during the regular season.	Federal Limits
Potato Creek Hatchery	Wed. and Sat. only during regular season hours and days.	Federal Limits
Russell Creek	Wed. and Sat. AM only during the regular season.	Federal Limits
Samson Island Unit (Bear Island)	Thurs. and Sat. am only during the regular season.	Federal Limits
Samworth	Wed. and Sat. AM only during the regular season.	Federal Limits
Sandy Beach	Hunters selected by drawing.	Federal Limits
Santee Coastal Reserve	Hunters selected by drawing.	Federal Limits
Santee Cooper	Hunters selected by drawing.	Federal Limits
Santee-Delta	Wed. and Sat. AM only during the regular season.	Federal Limits
Tibwin	Special hunts by drawing.	Federal Limits
Turtle Island	Wed. and Sat. AM only during the regular season.	Federal Limits
Tyger River	Sat. AM only during	Federal Limits

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regular season.

Great Pee Dee Wednesdays during federal Federal Limits
waterfowl season. From
legal shooting hours until
12:00 noon.

Little Pee Dee River Wednesdays during Federal waterfowl Federal Limits
Complex season. From legal shooting hours
until 12:00 noon.

10.17 On Hickory Top WMA public waterfowl hunting without a Wildlife Management Area(WMA) permit is allowed on all land and water below 76.8'. Waterfowl hunting at or above elevation 76.8' requires a WMA permit.

10.18 Designated Dove Management Areas include all dove management areas as published by the Department in the annual listing of WMA public dove fields and are subject to regulations filed annually.

AMPHIBIANS AND REPTILES

11.1 Taking of any amphibian or reptile, except the bullfrog, is prohibited on any Department-owned Wildlife Management Areas without written permission of the Department.

**SUBARTICLE 2
Crow Hunting Season**

123-50. Crow Hunting Season

The following rules and regulations shall hereby be provided for the hunting of crows in this State.

1. Crows shall not be hunted from aircraft.
2. The hunting season in this State shall extend from November 1 until March 1 of each year.
3. The penalty for the violation of these rules and regulations shall be that prescribed by 50-11-10 of the 1976 Code.

**SUBARTICLE 3
OTHER BIG GAME**

123-51. Turkey Hunting Rules and Seasons

1. Total season limit of 5 turkey statewide per person, 2 per day, gobblers only unless otherwise specified. Total statewide and county bag limits include turkeys harvested on Wildlife Management Areas (WMAs). Small unnamed WMAs in counties indicated are open for turkey hunting. Turkey seasons and are as follows:

AREA	DATES	LIMIT	Other Restrictions
Game Zone 1	April 1 - May 1	5	
Oconee, Pickens & Greenville counties north of Norfolk Southern Railroad ONLY			
Game Zone 2	April 1 - May 1	5	

Anderson, Abbeville, Laurens, Newberry,
Greenwood, McCormick, Saluda & Edgefield
counties and Oconee, Pickens & Greenville
counties south of Norfolk Southern Railroad
ONLY.

Game Zone 3	April 1 - May 1		
Aiken		5	
Lexington & Richland counties		2	
Game Zone 4	April 1 - May 1	5	
Cherokee, Chester, Fairfield, Lancaster, Spartanburg, Union & York counties			
Game Zone 5	April 1 - May 1		
Kershaw County		5	
Chesterfield & Marlboro counties		2	
Game Zones 6 and 11	March 15 - May 1	5	
Allendale, Bamberg, Barnwell, Beaufort, Berkeley, Calhoun, Charleston, Colleton, Dorchester, Hampton, Jasper & Orangeburg Counties.			
Game Zone 7	April 1 - May 1	2	
Dillon & Horry counties			
Game Zone 8	April 1 - May 1	2	
Sumter, Lee & Darlington counties			
Game Zone 9	April 1 - May 1	5	
Clarendon, Williamsburg & Georgetown counties			
Game Zone 10	April - May 1	2	
Florence & Marion counties			
WMA lands:			
Keowee WMA	April 1 - May 1	2	Shotguns only - north of Hwy 123 and west of the Keowee Arm of Lake Hartwell to Hwy 291 and west of Hwy 291. Archery Only on other sections.
Francis Marion Hunt Unit	April 1 - May 1	2	WMA Only
Sand Hills State Forest WMA	April 1 - May 1	2	Wed. - Sat. Only
Webb-Palachucola WMA's	April 1 - May 1	2	
Manchester State Forest WMA	April 1 - May 1	2	Wed. - Sat. Only

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Moultrie Hunt Unit	April 1 - May 1	2	Wed. & Sat. Only
Bluefield WMA	April 1 - May 1	2	Adult/Youth Only
Hall WMA	April 1 - May 1	2	Archery Only
Santee Dam WMA	April 1 - May 1	2	Wed. & Sat. Only
Marsh Furniture WMA	April 1 - May 1	2	Wed. & Sat. Only
McBee WMA	April 1 - May 1	2	Wed. & Sat. Only
Hickory Top WMA	April 1 - May 1	1	Wed. & Sat. Only
Pee Dee Station Site WMA	April 1 - May 1	1	Wed. & Sat. Only
Great Pee Dee River WMA	April 1 - May 1	1	Wed. & Sat. Only
Tillman Sand Ridge WMA	April 1 - May 1	2	Fri. & Sat. Only
Lewis Ocean Bay HP	April 1 - May 1	1	Fri. & Sat. Only
Waccamaw River HP	April 1 - May 1	1	Fri. & Sat. Only
Bucksport WMA	April 1 - May 1	1	Fri. & Sat. Only
Cartwheel Bay HP	April 1 - May 1	1	Fri. & Sat. Only
Little Pee Dee River Complex	April 1 - May 1	1	Fri. & Sat. Only
Victoria Bluff WMA	April 1 - May 1	1	Fri. & Sat. Only
Crackerneck WMA	April 1 - May 1	5	Fri. & Sat. Only, Main gate opens at 4:30 am and closes at 1:00pm. Sign in and out at the gate required.

2. The following Regulations apply to all Wildlife Management Area lands. No turkey hunting permitted on Turkey Restoration Sites which have not been formally opened by the Department.

a. During the spring turkey hunting season no game animal may be taken except turkey gobblers (bearded birds). During the fall turkey season both gobblers and hens may be taken.

b. Shotguns, muzzleloader shotguns, or bows and arrows are permitted, all other weapons and methods of taking are prohibited including rifles, pistols, hard jacketed bullets, buckshot and slugs.

c. Turkeys may not be hunted with dogs.

d. Live decoys are prohibited.

e. It is unlawful to hunt turkeys on Sundays on Wildlife Management Area lands and on private lands within Game Zones 1, 2 and 4.

123-52. Deer Hunting on Private Lands in Game Zones 1, 2 and 4 (50-11-310, 50-11-350, 50-11-390).

1. The seasons and limits for deer hunting on private lands in Game Zones 1, 2 and 4 are as follows:

Game Zone 1

No more than 5 bucks total may be taken during all seasons combined, regardless of method archery, muzzleloader, gun)

Primitive Weapons For Deer (No dogs)	Oct. 1 through Oct. 10	Muzzleloaders, 2 deer, buck only, 2 per day; archery, 2 deer, either-sex, 2 per day.
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Still Gun Hunts For Deer Only (No dogs)	Oct. 11 through Oct. 16 Oct. 31- Jan. 1	Total of 5 deer for all gun hunts. 2 deer buck only, except either-sex on days specified in Reg. 4.2.
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Game Zone 2

No more than 5 bucks total may be taken during all seasons combined, regardless of method (archery, muzzleloader, gun)

Archery (No dogs)	Sept. 15 - Sept. 30	Total of 3 deer for archery only hunts, 2 per day, either-sex.
Primitive Weapons Hunts (No dogs)	Oct. 1 - Oct. 10	2 Deer, buck Only for muzzleloaders except either-sex the last Sat. during primitive weapon season. Archery, either-sex.
Still Gun Hunts (No dogs)	Oct. 11 - Jan. 1.	10 deer; 2 per day, buck ONLY for gun hunts except either-sex on days specified in Reg. 4.2. Limit of 10 must not include more than 5 bucks. Male fawns apply toward the buck limit. Archers are allowed to take either-sex during entire period; however, daily and season bag limits apply.

Game Zone 4

No more than 5 bucks total may be taken during all seasons combined, regardless of method (archery, muzzleloader, gun)

Archery Only (No dogs)	Sept. 15 - Sept. 30	Total of 3 deer for archery only hunts, 2 per day, either-sex.
Primitive Weapons Hunts (No dogs)	Oct. 1 - Oct. 10	2 deer- Buck Only for muzzleloaders except either-sex the last Sat. during primitive weapon season. Archery, either-sex.
Still Gun Hunts (No dogs)	Oct. 11 - Jan. 1	10 deer; 2 per day, buck ONLY for gun hunts except either-sex on days specified in Reg. 4.2. Limit of 10 must not include more than 5 bucks. Male fawns apply toward the buck limit. Archers are allowed to take either sex during entire

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period; however, daily and season bag limits apply.

2. Hunters may use any shotgun, rifle, long bow or hand gun except that specific weapons may be prohibited on certain hunts.

3. For Special Primitive Weapons Seasons, primitive weapons include bow and arrow and muzzle-loading shotguns (20 gauge or larger) and rifles (.36 caliber or larger) with open or peep sights or scopes, which use black powder or a black powder substitute that does not contain nitro-cellulose or nitro-glycerin components as the propellant charge; ignition at the breech must be by the old type percussion cap which fits on a nipple or by flintstone striking frizzen or a "disk" type ignition system. The use of in-line muzzleloaders and muzzleloaders utilizing a shotgun primer in a "disk" type ignition system is permitted. During primitive weapons season, no revolving rifles are permitted.

4. Hunters are not allowed to take deer with military or hard-jacketed bullets or .22 rimfire rifles.

5. It is unlawful to hunt deer with dogs in Game Zones 1, 2 and 4.

6. On all private lands, baiting or hunting over a baited area is prohibited. As used in this section, "bait" or "baiting" means the placing, depositing, exposing, distributing, or scattering of shelled, shucked, or unshucked corn, wheat, or other grain or other food stuffs to constitute an attraction, lure, or enticement to, on, or over any area. "Baited area" means an area where bait is directly or indirectly placed, deposited, exposed, distributed, or scattered and the area remains a baited area for ten (10) days following the complete removal of all bait.

123-53. Bear Hunting Rules and Seasons

1. The open season for taking by still hunting in Game Zone 1 is Monday through Saturday the 3rd week in October.

2. The open season for taking bears with the aid of dogs by a party permitted by the Department in Game Zone 1 is Monday through Saturday the 4th week in October.

Fiscal Impact Statement:

This amendment of Regulation 123.40 will result in increased public hunting opportunities which should generate additional State revenue through license sales. In addition, the local economy should benefit from sales of hunting supplies, food and overnight accommodations. Sales taxes on these items will also directly benefit government.

Document No. 2685

DEPARTMENT OF NATURAL RESOURCES

CHAPTER 123

Statutory Authority: S.C. Code Sections 50-11-2200 and 50-11-2210

Synopsis:

These regulations govern the conduct and activities of visitors to all lands owned by the Department of Natural Resources in order to protect and preserve natural resources while providing maximum public benefit through regulated outdoor recreation opportunities. The repeal of current regulations which apply to specific properties will consolidate and simplify regulations for Department-owned properties. 123-70.

Instructions:

Repeal Regulations 123-70, 123-82, 123-90, 123-91, 123-92, 123-93, 123-94, 123-95, 123-152.
Establish Regulations 123-200 through 123-211.

The following current regulations should be repealed:

- 123-70. Dennis Wildlife Center
- 123-82. Parr Hydroelectric Project Fish and Game management Area
- 123-90. Capers Island
- 123-91. Turtle island
- 123-92. Stevens Creek Natural Area
- 123-93. Victoria Bluff Natural Area
- 123-94. Protection and management of the Eastatooe Creek Wildlife management Area in Pickens County, South Carolina
- 123-95. Protection and management of the Flat Creek/Forty Acre Rock Natural area in Lancaster County, South Carolina
- 123-152. Application of Rules to Heritage Preserves

Text:

Reg.

- 123-200. Regulations Applicable to Real Property Owned by the Department of Natural Resources.
- 123-201. Definitions.
- 123-202. Hazard of outdoor activities and liability.
- 123-203. General Regulation.
- 123-204. Regulations Applicable to Heritage Preserves Generally
- 123-205. Regulations Applicable to Specific Properties.
- 123-206. Special events, permit requirements and procedures, and exceptions.
- 123-207. Special Events, Permit Requirements and Procedures, and Exceptions
- 123-208. Permits to Collect Plants, animals, or Minerals or to Undertake Archeological Activities
- 123-209. Exception for Non-Public Use Properties.
- 123-210. Management Activities of Department Personnel.
- 123-211. Law Enforcement, Fire Fighting, and Emergency Activities.

123-200. Regulations Applicable to Real Property Owned by the Department of Natural Resources.

Applicability and Scope.

A. The purpose of this regulation is to govern the conduct and activities of visitors to all lands owned by the Department of Natural Resources. This regulation applies to all lands, structures, and property owned by the

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Department of Natural Resources, including but not limited to wildlife management areas, heritage preserves, boat landings, and game preserves or reserves.

B. Regulations for the establishment of open and closed seasons, bag limits, and methods for hunting and taking wildlife on all Department owned wildlife management area lands, and for the protection, preservation, operation, maintenance, and use of wildlife management area lands not owned by the Department are stated in R.123-40. The regulations below will apply to Department owned wildlife management area lands in addition to R.123-40. In case of any conflict with R.123-40, this regulation will prevail.

C. Wildlife management area lands not owned by the Department are regulated generally under R.123-40 and specific regulations for individuals species.

123-201. Definitions.

For purposes of this regulation:

“All terrain vehicle” means a motorized vehicle, regardless of the number of wheels, designed or constructed primarily for use off of paved or improved roads.

“Boats” mean any watercraft, including but not limited to motorboats, sailboats, personal watercraft, canoes, kayaks, sailboards, rafts, inflatable boats, shells, and rowboats.

“Camping” means the overnight occupancy of Department land.

“Department” means the South Carolina Department of Natural Resources.

“Department land” mean real property, including any buildings, structures, or improvements, owned by the Department in fee simple, including but not limited to game preserves or reserves, heritage preserves, boat landings, and Department land designated as wildlife management area land.

“Ecofacts” are carbonized plant remains, animal bones, and shells utilized as food by historic and prehistoric peoples. Context refers to a non-disturbed area. Generally subsurface features like a post hole, fire pit, or grave if undisturbed, provide good context for archaeological pursuits.

“Fireworks” means any device for producing any display, such as light, noise, or smoke, by the combustion of explosive or flammable compositions.

“Fishing” means all activity and effort involved in taking or attempting to take fish.

“Hiking” means traversing the lands subject to this regulation by foot for the purpose of pleasure or exercise, except traversing in connection with any other activity regulated by this regulation.

“Horse riding” means any equestrian activity.

“Hunting” means the act of trying to find, seek, obtain, pursue, or diligently search for wildlife for sport, regardless of whether wildlife is taken or not. The act of seeking wildlife or the pursuit of wildlife as sport, such as but not limited to racoon hunting and training hunting dogs shall be deemed hunting. Any person accompanying a hunter or hunters and participating in a hunt in any regard shall be deemed to be hunting.

“Motorized vehicle” means a device incorporating a motor or an engine of any type for propulsion, and with wheels, tracks, skids, skis, air cushion or other contrivance for traveling on or adjacent to land. It shall include such vehicles as automobiles, trucks, jeeps, vans, busses, motorcycles, bulldozers, timber harvesters, and other earth-moving equipment.

“Nonmotorized vehicle” means a device not incorporating a motor or an engine of any type for propulsion, and with wheels, tracks, skids, skis, air cushion, or other contrivance for traveling on or adjacent to land. It shall include such vehicles as bicycles, skates, and in-line skates.

“Off road vehicle” means a motorized vehicle that has been modified from its stock condition to enhance its ability for use off of paved or improved roads.

“Pack animal” mean any beast, including but not limited to horses, mules, donkeys, and llamas, used for the purpose of transporting equipment, gear, or other articles.

“Pets” mean any domesticated animal which is kept for the pleasure of the owner; however, for purposes of this regulation, pets may not include dangerous or venomous animals or any animal classified as threatened, endangered, or in need of management by any state or the federal government. A raptor, permitted as provided under R.123-170, Code of Laws of South Carolina, 1976, as amended, will be deemed a pet.

“Pollution” or “polluting” means the direct or indirect act of throwing, draining, depositing, or otherwise discharging organic or inorganic matter in or on Department land.

“Primitive Camping” means the overnight occupancy of Department land, utilizing nothing more than temporary shelter such as a tent or tarp transported to the camping site by backpacking or by watercraft.

“Rock climbing” means the sport of ascending or descending rock faces of such vertical angle that the climber must use technical climbing techniques to safely negotiate the climb. This includes all free, aided, and friction climbing where ropes, pitons, nuts, chocks, screws, carabiners, snap links, chalk, ropes, fixed or removable anchors, or other similar climbing equipment is used.

“Rocks, artifacts, or ecofacts” shall include but not be limited to arrowheads, spear points, scrapers, drills, soapstone and soapstone objects, pottery sherds and vessels, bottles, beads, brick, tabby, metal objects (such as buttons, buckles, ordnance, insignia), charcoal, shells, plant remains, animal remains, and bone tools.

“Shells” mean the hard rigid, usually calcareous, covering of an animal.

“Specialty animals” mean all animals other than domestic pets; those native and imported animals which have been removed from the wild and are being bred, raised or kept for research, food, fur or skins, or for the production of income. Reptiles and amphibians are included in this category.

“Taking” means to shoot, wound, kill, trap, capture, or collect, or attempt to shoot, wound, kill, trap, capture, or collect any wildlife.

“Weapon” means an instrument of offensive or defensive combat, including firearms, capable of injuring human beings or animals; provided, however, implements such as small pocket or kitchen knives normally will not be considered as weapons.

“Wildlife” means all wild birds, wild game, fish, and any wild mammal, bird, amphibian, reptile, fish, mollusk, crustacean, or other wild animal not otherwise legally classified by statute or regulation of this State as a game species.

“Wildlife management area land” means those lands leased or otherwise established by the Department for the protection, propagation, and promotion of fish and wildlife and for public hunting and fishing.

123-202. Hazard of outdoor activities and liability.

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Department land is made available to the general public for reasonable uses not prohibited by statute or regulation. These lands are held and maintained in a natural condition, except for uses requiring modification. Outdoor activities are not risk free. All members of the public using Department land and wildlife management area land must exercise due care in planning and carrying out any activities. Any person making use of Department land and wildlife management area land for any purpose does so at his own risk, and the Department shall not be liable in any respect for any loss, damage, or injury to person or property caused or occasioned thereby.

123-203. General Regulation.

This section shall apply to all Department land, except as provided in any regulation for Heritage Preserves in 123.204 or specific Department land designated in 123.205.

A. Hunting, fishing, and taking game animals, birds, fish, or other wildlife is allowed on Department land that has been designated as part of the Wildlife Management Area program. Hunting, fishing, and taking shall be subject to all applicable statutes and regulations, specifically including R.123-40.

B. Possession of any firearm or weapon on Department land must comply with applicable state and federal statutes. All firearms must be unloaded and secured in a weapons case except while legally hunting, unless otherwise legally permitted. Target, skeet, trap, plinking, paint ball, or any other type of shooting with any firearm or weapon is not be allowed on Department land, except in any area specifically designated and operated by the Department as a shooting range.

C. Hiking is allowed subject to the following restrictions or conditions:

(1) Hiking is not allowed on any restricted lands or areas. The Department may post or place signs declaring any area closed to hiking;

(2) The use of all designated hiking trails, except for posted multi-use trails is restricted solely to foot travel and the legitimate activities associated with the pursuit of hiking;

D. Rock climbing is prohibited on all Department land.

E. Operation of motorized, nonmotorized vehicles, all terrain vehicles, and off road vehicles.

The operation of motorized vehicles is allowed subject to the following restrictions or conditions:

(1) Motorized vehicles, all terrain vehicles, and off road vehicles may be operated only on open maintained roads and parking areas except as otherwise established by posted notice or as approved by the Department.

(2) Motorized vehicles, all terrain vehicles, and off road vehicles shall not exceed speed limits posted on Department signs. On any land where no speed limit signs are posted, the speed limit shall be 25 miles per hour.

(3) No person may operate any motorized, all terrain vehicle, off road vehicle or non-motorized vehicle in a reckless or negligent manner. The operation of any vehicle in such a manner as to indicate either a willful or wanton disregard for the safety of persons or property shall be deemed to be operating in a reckless manner.

(4) Motorized vehicles, all terrain vehicles, and off road vehicles must be operated in accordance with load limits as established by posted notice for roads or bridges.

(5) No person shall cause or permit any motorized, all terrain vehicle, and off road vehicle to obstruct traffic by unnecessary stopping. In the event of mechanical difficulties, the driver must make arrangements for

the expeditious removal of the vehicle. No motorized vehicle, all terrain vehicle, and off road vehicle shall be left parked on any road at night without lights or reflectors visible from both front and rear of the vehicle.

(6) Parking of motorized vehicles, all terrain vehicles, and off road vehicles must comply with any posting or signs and any instructions given by Department or law enforcement personnel. Obstructing vehicular travel is prohibited.

(7) All motorized vehicles, all terrain vehicles, and off road vehicles must be equipped with properly working mufflers, brakes, spark arresters (if the vehicle was originally factory equipped with spark arresters and/or mirrors).

(8) No trucks or other motorized vehicles commonly used for carrying freight, merchandise, or goods for sale, unless traversing on a through public highway, shall operate on roads or land without obtaining written permission from the Department. Vehicles used in connection with delivery of supplies, site work activities, or concessions for authorized activities may operate in compliance with posted signs or notices.

(9) Charter buses or other vehicles engaged in transporting persons for compensation are not allowed. The Department may issue permits for entry by charter buses, for hire vehicles, tour groups, or similar activities, and the Department may condition permits as needed to protect the land and limit interference with other legitimate uses of the land.

(10) No person operating or responsible for any aircraft may cause such aircraft to land on or take off from any Department land or deliver by air any person, material or equipment by parachute or other means, except in emergencies threatening human life or when authorized in writing by the Department.

(11) The numbers of motorized vehicles, nonmotorized vehicles, horses, or boats allowed on any area at one time may be limited by the Department through a permitting system.

(12) The operation of nonmotorized vehicles are allowed subject to the following restrictions or conditions:

(a) Bicycles must be ridden only on roads open to motorized vehicles and designated bicycle trails.

(b) Where provided, bicycle racks must be used for parking bicycles. Bicycles must not be chained and locked to site structures or placed so as to obstruct pedestrian or vehicular movement.

(c) Using roller skates, in-line skates, skateboards, roller skis, coasting vehicles, or similar devices is prohibited, except in designated areas.

F. Swimming and Bathing.

Swimming is prohibited except in designated areas. The prohibition against swimming will not apply to any State or federal navigable waterway abutting or flowing through Department land.

G. Camping.

Camping is prohibited on Department land, except under the following conditions:

(1) Camping is allowed only within areas designated as campsites by the Department. The Department will designate campsites by placement of signs or by other means such as maps or brochures.

(2) Camping in one location for more than four nights is prohibited except under permit.

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(3) All camping supplies must be removed from camping sites. The storage of personal property on Department land is prohibited.

(4) No organized group of ten or more individuals may camp on Department lands at a single designated camp site at any time except under permit. For any group of ten or more campers, the Department may issue one permit, listing the name of each camper and designating a particular campsite.

(5) Permanent structures must not be erected. Campers must provide their own shelter in the form of a portable tent or other portable artificial cover.

(6) Any tent or other camping structure left unoccupied for more than seventy-two hours may be taken down or removed by the Department.

(7) Pack animals must not be used while camping or in support of camping.

H. Horse riding.

(1) The riding of horses is permitted on Department land only in areas specifically designated for horse riding.

(2) The Department may restrict the number of horses and horse trailers on any Department land and may require permits on specific areas. Restrictions shall be posted at the offices and/or entrances to Department lands or in published brochures.

I. Operation of boats.

(1) Boats may be used on Department land only on a watercourse or water body which has been designated by the Department for the use of boats. The Department may restrict the type, size, or number of boats and motors or the use of motors. Any restrictions shall be posted at the entrances to Department land. This restriction shall not apply to any State or federal navigable waterway.

(2) No motorized boat may be launched on Department land except at launch sites designated by the Department.

J. Possession of pets or specialty animals.

(1) Pets are not allowed on Department land except under the following conditions;

- (a) Pets must not roam freely;
- (b) Pets may enter Department land and accompany an individual on allowed activities if each pet is under the actual control of the owner or possessor;
- (c) Neither dangerous pets nor pets with a propensity toward aggressive behavior are allowed.

(2) The requirements of this subsection do not apply to dogs while being used during and as a part of any of the following activities on Department land:

- (a) Hunting during open hunting seasons on lands or waters open for hunting when use of dogs is authorized by statute or regulation.
- (b) The training of dogs to hunt is deemed hunting; training of dogs to hunt on lands and waters may be undertaken only during periods when hunting with dogs is authorized by statute or regulation.
- (c) Authorized field trial events;
- (d) Special events or activities as authorized by the department;
- (e) Providing assistance to the visually or hearing impaired.

- (3) Raptors are allowed on Department land in compliance with R.123-170.
- (4) No specialty animals shall be allowed on Department land.

K. Consumption of alcohol.

Public drunkenness is not allowed on Department land. The consumption or display of any beverage containing alcohol while operating or riding as a passenger in any motorized or non-motorized vehicle is not allowed. Alcoholic beverages may be consumed by a person of lawful age only while actually camping at a designated campsite.

L. Gathering, damaging, or destroying plants, animals, fungi, rocks, minerals, fossils, artifacts, or ecofacts.

(1) No person may gather, collect, deface, remove, damage, disturb, destroy, or otherwise injure in any manner whatsoever the plants, animals (except lawful hunting), fungi, rocks, minerals, fossils, artifacts, or ecofacts on any Department land, including but not limited to any tree, flower, shrub, fern, moss, charcoal, plant remains, or animal remains on any Department land and wildlife management areas. The Department may authorize the collection of certain material upon issuance of a permit as provided in 123-207.

(2) Shed antlers at ground surface may be collected on Department land.

(3) The collection of shells by individuals on beaches along the Atlantic Ocean is allowed, provided that access to the beach is not part of or associated with any commercial operation, charter, tour, or organized group. No person may collect in one day more shells than will fill a one gallon container. The collection of shells for any commercial purpose is not allowed. Charter, commercial, or other for hire boats, buses, or other conveyances may not enter Department land for any purpose connected with collecting shells.

(4) The use of metal detectors is prohibited on Department land.

(5) The use of a metal or fiberglass probe to search for any object below ground surface is prohibited on Department land.

(6) Campers may collect firewood as authorized in 123-203.N(3).

M. Use of fire, fireworks, or explosives.

(1) No open fires may be started on any Department land except at campsites designated by the Department. Gas grills, gas lanterns, and portable charcoal grills may be operated at designated campsites.

(2) No fire may be lit until all flammable material has been removed from its perimeter as is necessary to prevent its spread. No fire may be left unattended. Prior to leaving the site, any fire must be completely extinguished, leaving neither flames nor embers.

(3) No wood, except from dead and down trees or from supplies as may be furnished by the Department shall be used for fuel.

(4) On any land where camp fires are permitted, the Department may prohibit the use of fires for any purpose by posting a notice at entrances to individual parcels of land.

(5) No person may deposit lighted matches, cigars, cigarettes or other burning tobacco where they will cause fire.

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(6) The possession of fireworks is prohibited.

N. Pollution or contamination of any land or water.

The polluting of land and water is not allowed on Department land. The depositing of waste, refuse, or any material that pollutes or contaminates land or water is not allowed.

O. Acting in a disorderly manner is not allowed on Department land.

In addition to any basis recognized under current common law or statutory law, the following conduct shall be deemed disorderly:

(1) Acting in a boisterous or disorderly manner, creating unreasonable noise, unduly annoying other persons, or behaving in such a manner as is reasonably calculated to cause a breach of the peace;

(2) Making loud and unseemly noises or profanely cursing, swearing, or using obscene language;

(3) Indecently exposing one's person or performing any indecent act;

(4) Throwing missiles, to the annoyance of the public;

(5) Obstructing, encumbering, interfering with lawful use, or rendering dangerous any public place;

(6) Engaging in, instigating, or encouraging a confrontation or fight;

(7) Causing a disturbance of the public peace.

P. Operation of audio devices, musical instruments, or other noise making instruments.

The operation or use of any audio device, including radio, television, musical instruments, or any other noise producing devices, such as electrical generators, and equipment driven by motor engines, in such a manner and at such times as to disturb other persons is prohibited on all Department land. No person may operate or use any public address system. The use of legal weapons during an open hunting season will be allowed while hunting on Department land designated as a wildlife management area.

Q. Abuse of Department land.

Abusing, damaging, defacing, or destroying land or any improvements on Department is unlawful. Abuse of lands and improvements includes, but is not be limited to:

(1) Defacing, altering, destroying, or removing any sign, marker, guidepost, fence, gate, lock, barrier, improvement, building, bridge, culvert, structure, natural landmark or feature;

(2) Digging or excavating;

(3) Cutting trees, shrubs, or other plants;

(4) Making or cutting new trails;

(5) Use of herbicides or pesticides (excluding insect repellent);

(6) Introducing any non-native or cultivated plants or other organisms;

(7) Releasing any animal; provided, however, this restriction shall not apply to catch and release fishing.

R. Restricted areas.

The Department may restrict access to designated areas on any Department land. Access to any area may be restricted when the Department determines that the best interest of the property will be served.

S. Hours of Operation

Generally, all Department lands are open for uses allowed by this regulation twenty-four hours a day. The Department may restrict the hours of operation on any Department land by publication in Department brochures and pamphlets or by posting on site specific hours of operation.

123-204. Regulations Applicable to Heritage Preserves.

A. As authorized by Section 51-17-10, et seq., Code of Laws of South Carolina, 1976, as amended, certain Department owned lands have been designated as heritage preserves. Heritage preserves have been created to protect the State's natural and cultural diversity. The general regulation in 123.203 applies to heritage preserves, except where any regulation is inconsistent with the regulations within this section. Certain heritage preserves listed in 123-205 may have specific regulations that differ from either 123-203 or 123-204.

B. The specific regulations stated in 123-205 shall take precedence over regulations stated in either 123-203 or 123-204.

C. Hours of Operation.

Heritage preserves are open for public use from one hour before sunrise to one hour after sunset. On any preserve that is designated as a wildlife management area, the hours of operation shall be same as are authorized for hunting as stated in 123-40. The Department may set different operating hours for individual preserves. When operating hours are different from sunrise to sunset, the Department may restrict the hours of operation by publication in Department brochures and pamphlets or by posting on site specific hours of operation.

D. Weapons and firearms.

Except as otherwise specifically authorized by South Carolina statute or this regulation, weapons and firearms are not allowed on any heritage preserve. Possession of a weapon or firearm is allowed on any heritage preserve designated by the Department as a wildlife management area subject to the regulations.123-40 and R.123-203.B.

E. No horses, cattle, llamas, goats, sheep, dogs, cats, or livestock, draft, pack, or riding animals may be introduced to, placed upon, or allowed to graze or wander on any heritage preserve. Pets are allowed as provided in 123-203.J. Dogs used in connection with hunting may be allowed on heritage preserves designated by the Department as wildlife management areas as provided in 123-203.J(2).

F. All terrain vehicles are not allowed on any heritage preserve. Bicycles may be ridden on roads open to motorized vehicles and on any designated bicycle trail.

G. The collection, removal, or disturbance of rocks, artifacts, or ecofacts from surface or subsurface contexts is prohibited. Marine and freshwater shell and antler objects are deemed as artifacts or ecofacts. Marine shells found on the surface of beaches along the Atlantic Ocean may be collected by individuals.

H. The possession or use of metal detectors is prohibited on heritage preserves.

I. The collection of recently shed antlers from surface contexts is allowed on heritage preserves.

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123-205. Regulations Applicable to Specific Properties.

A. Aiken County Gopher Tortoise Heritage Preserve.

(1) Horse riding is allowed only on roadways, firebreaks, and trails. Riders may ride in groups no larger than five (5).

(2) Bicycles may be ridden on hiking trails. Bicyclists may ride in groups no larger than five (5).

B. Bay Point Heritage Preserve.

(1) No dogs are allowed.

(2) No person may enter any area of the preserve designated as a nesting area for birds.

C. Bear Branch Heritage Preserve.

Public visitation is by permit only. The preserve is closed to use except by permit.

D. Bear Island

(1) Public visitation is by permit only.

(2) The property is closed to all public access from November 1 to January 21, except for scheduled waterfowl hunts.

(3) Horseback riding and all terrain vehicles are prohibited.

(4) Camping is allowed only at designated sites and only during scheduled big game hunts.

E. Bird-Key Stono Heritage Preserve.

(1) No dogs are allowed.

(2) No person may enter any area of the preserve designated as a nesting area for birds.

F. Caper's Island Heritage Preserve.

(1) Overnight Camping on Capers Island is by permit only. Permit may be obtained from the DNR Charleston office. No more than 80 people will be allowed to camp per night. These 80 people may be divided into no more than 20 different groups.

(2) Permits will be issued on a first come first served basis.

(3) Campsites will be occupied on a first come first served basis.

(4) Permits are not required for day use.

(5) Persons without permits must be off the island by one hour after sunset.

(6) No trash is to be placed in any fire or buried.

(7) Department maintenance facilities on the island are not open to the public.

(8) No crab or fish pots or traps are allowed in impoundments.

(9) No motorized vehicles, nonmotorized vehicles, off road vehicles, or all-terrain vehicles are allowed on Capers Island.

(10) No fishing is allowed from the impoundment tide gate.

G. Crab Bank Heritage Preserve.

(1) No dogs are allowed.

(2) No person may enter any area of the preserve designated as a nesting area for birds.

H. Daws Island Heritage Preserve.

Camping is allowed only by permit issued by the Department. Primitive camping only is allowed. Daws Island camping is limited to two groups of no more than eight people in each group.

I. Deveaux Bank.

(1) No dogs are allowed.

(2) No person may enter any area of the preserve designated as a nesting area for birds.

J. Donnelley WMA

(1) Horseback riding is allowed by permit only on designated roads.

(2) All terrain vehicles are prohibited.

(3) Camping is prohibited.

K. Dungannon Plantation Heritage Preserve.

(1) No person may enter any area of the preserve designated as a nesting area for birds.

(2) Entrance to the preserve is through a designated parking area. Each person must sign in and out of the preserve at a designated entrance/exit.

L. Gopher Branch Heritage Preserve.

Public visitation is by permit only.

M. Great Pee Dee River Heritage Preserve.

(1) Primitive camping only is allowed. Camping may occur only along riverbanks and on sandbars, which may be approached only by backpacking or boat. A camper may remain in one location no more than five consecutive nights.

(2) Each person entering the preserve other than by boat must sign in and out at a designated entrance/exit.

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N. Jim Timmerman Natural Resources Area at Jocassee Gorges.

This subsection shall apply to all Department owned land within the boundaries of the Jim Timmerman Natural Resources Area at Jocassee Gorges (hereinafter referred to as Jocassee Gorges).

(1) Camping.

(a) Backcountry camping by permit will be allowed at any time during the year that the main roads allowing access to the Jocassee Gorges are not opened in connection with big game hunting. Backcountry camping is allowed by permit only at any location within the Jocassee Gorges, except for any area closed for camping by the Department. Backcountry camping is defined as minimal impact camping. No fires are allowed and each permitted camper is responsible for camping in a manner that results in no trace of the camping activity being left after breaking camp. The Department may condition permits to protect, preserve, or maintain the property. Backcountry campers must apply for camping permits over the Department internet site. No camping is permitted within fifty (50') feet of a stream, lake, or as posted by the Department.

(b) The Foothills Trail passes through portions of the Jocassee Gorges. Use of the Foothills Trail shall be limited to hiking and primitive camping. Camping is allowed at any point along the trail and within one hundred feet of either side of the trail. Camping along the Foothills Trail is restricted to hikers while engaged in backpacking.

(2) Operation of motorized, non-motorized vehicles, all terrain vehicles, and off road vehicles.

Motorized and non-motorized vehicle access to the Jocassee Gorges is limited. Highway 178 and Cleo Chapman Road (county road 143) are the only paved roads that access the property. Access by the general public to the Jocassee Gorges by motorized vehicles will follow a seasonal schedule. Road opening and closing schedules written below are given as general information. The Department may open and close any road at any time and for such duration as deemed necessary by the Department to manage the property.

(a) The operation of a motorized vehicle behind any closed gate is prohibited.

(b) Roads open to year-round public access include a section of Horsepasture to Laurel Fork Gap (from Highway 178 only).

(c) All roads with Green gates are seasonally open. All roads with red gates are closed to vehicular traffic. This information will be posted at all major entrances. Gate color can be changed as discretion of SCDNR.

(d) Motorized vehicles, all terrain vehicles, and off road vehicles may be operated only on open maintained roads and parking areas except as otherwise established by posted notice or as approved by the Department.

(e) Motorized vehicles, all terrain vehicles, and off road vehicles shall not exceed speed limits posted on Department signs. On any land where no speed limit signs are posted the speed limit shall be 15 miles per hour.

(f) Subject to the authority in subsection (d) above, the operation of all terrain vehicles is restricted as follows: Operation of all terrain vehicles is restricted to one hour before sunrise to one hour after sunset each day beginning on Monday and continuing through the following Friday. A person may use an all terrain vehicle while actually engaged in hunting at any time hunting is allowed; provided, however, the operation of an all terrain vehicle is restricted to one hour before sunrise to one hour after sunset with the exception of game retrieval, and an all terrain vehicle may be used only on open roads.

(g) All terrain vehicles having three (3) wheels and motorcycles constructed or intended primarily for off road use, such as dirt bikes and motocross bikes, are prohibited within the Jim Timmerman Natural Resources Area at all times.

(h) Bicycles may be ridden on any road or area that is not posted as closed to bicycles.

(3) Horse may be ridden on any road that is not posted as closed to horse riding.

(4) The use of hang gliders, parachutes, or similar devices is not allowed and may be deemed abuse of Department land.

O. Joiner Bank Heritage Preserve.

(1) No dogs are allowed.

(2) No person may enter any area of the preserve designated as a nesting area for birds.

P. Lewis Ocean Bay Heritage Preserve.

Horse riding is allowed on roads open for use by motorized vehicles. Horse riding is not allowed on firebreaks and trails. Horse riding is prohibited during all deer hunts.

Q. Little Pee Dee Heritage Preserve

(1) Primitive camping only is allowed. Camping may occur only along riverbanks and on sandbars, which may be approached only by backpacking or boat. A camper may remain in one location no more than five consecutive nights.

(2) Horse riding is allowed on roads open for use by motorized vehicles. Horse riding is not allowed on firebreaks and trails.

R. Nipper Creek Heritage Preserve.

Public visitation is by permit only. The preserve is closed to use except by permit.

S. North Santee Bar Heritage Preserve.

(1) No dogs are allowed.

(2) No person may enter any area of the preserve designated as a nesting area for birds.

T. St. Helena Sound Heritage Preserve (Ashe Island, Beet Island, Big Island, Warren Island, and South Williman).

Camping is restricted to primitive camping in designated areas only.

U. St. Helena Sound Heritage Preserve (Otter Island).

(1) No dogs are allowed.

(2) Primitive camping only is allowed by permit issued by the Department. Primitive camping is restricted to designated areas and will be allowed only between November 1 and April 30 of the next year.

V. Samworth WMA.

(1) Managed wetlands will be open for wildlife observation, bird watching, photography or nature study without day or time restriction from February 1 through October 31 each year. Between November 1 through January 31 these activities will be restricted to designated areas on Butler Creek and the Big Pee Dee River. All public use of this type will be by foot travel only after arriving by watercraft.

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(2) The mainland nature trail will be open without day or time restriction to foot traffic only.

(3) All terrain vehicles, bicycles, and horses are prohibited.

(4) Temporary primitive camping will be available to organized groups by permit. No camping will be allowed that may conflict with organized hunts.

(5) Dirleton House and grounds are open to the public from 8:00 a.m. until 5:00 p.m., Monday through Friday.

W. Santee Coastal Reserve.

(1) The Santee Coastal Reserve will be open for limited public use year round except during annually scheduled hunts in November, December and January. Notice of the hunts will be issued annually.

(2) Hours of visitation are 8 a.m. to 5 p.m. daily .

(3) The dikes around the waterfowl impoundments and the canoe trail will be closed, except by prior arrangement, during the period of November 1 through January 31 of the next year. Due to water level manipulations, the canoe trail may not always be accessible due to low water levels.

(4) Prior arrangements must be made with the Reserve manager to use observation blinds for waterfowl.

(5) The upland nature trail will be available during open periods stated in subsection (2) above.

(6) The hiking/biking trail will also be available during open periods, however, it will be closed between the dates of November 1 through January 31.

(7) The beaches on Cedar and Murphy Islands will be open year round, seven days a week.

(8) Bicycles may be ridden on nature trails.

(9) A temporary camping permit may be issued to an individual to camp seasonally in the Spring, Fall, and the Winter hunting seasons within the same calendar year. The Department will not issue a permit to camp in excess of fourteen consecutive days.

(10) Fishing is permitted from the Santee River dock and the Hog Pen impoundment except during scheduled hunts. Fishing will be allowed during the hours of from 8:00 a.m. until 5:00 p.m., Monday through Saturday, and from 1:00 p.m. until 5:00 p.m. on Sunday. Fishing is permitted on Murphy and Cedar Island beaches at any time on a year round basis.

(11) In addition to camping available for deer hunters, the designated camping areas are available during the period of March 1 until October 31 and during open periods between November 1 and February 28 of the next year. A permit is required for all camping. Primitive camping is available on Cedar and Murphy Islands beaches year round which requires no prior arrangement. All arrangements for camping should be made with the supervisor of the Santee Coastal Reserve.

X. Santee-Delta WMA

(1) Managed wetlands will be open for wildlife observation, bird watching, photography or nature study without day or time restriction from February 1 through October 31 each year. Between November 1 through January 31 these activities will be restricted to designated areas marked by signs. All public use of this type will be by foot travel only.

(2) All terrain vehicles, bicycles, and horses are prohibited.

(3) Camping is prohibited.

Y. Shealy's Pond Heritage Preserve.

Gasoline powered motors on boats are prohibited.

Z. Tillman Sand Ridge Heritage Preserve.

- (1) Horse riding is allowed only on roads open for use by motorized vehicles.
- (2) Camping is allowed in designated campsites during designated hunts only.

AA. Tom Yawkey Wildlife Center.

The center is a wildlife sanctuary.

(1) The public may visit the Yawkey Center on a limited basis. Visitation is by pre-scheduled field trip only. Individual trips cannot be scheduled. Group field trip may be arranged by contacting the manager for the center. The public is advised that scheduling of field trips is entirely at the discretion of the manager in order to accommodate the basic responsibilities of the sanctuary.

(2) Camping is allowed only by permit issued by mail no less than two weeks in advance by the Department. Camping is allowed only on the beaches along the ocean front, which are accessible by boat only, between September 16 and May 14 of the next year. Primitive camping only is allowed for a period of no more than four consecutive nights per individual permittee.

BB. Victoria Bluff heritage Preserve.

- (1) Horse riding is allowed only on designated trails. Horse riding is prohibited during all deer hunts.
- (2) Camping is allowed only during Department designated archery hunts. Gas lanterns and gas grills only may be used by campers.
- (3) No campfires or any other use of fire shall be allowed.

CC. Waccamaw River Heritage Preserve.

Primitive camping only is allowed. Camping is allowed only along riverbanks and on sandbars; campers may approach only by backpacking or boat. A camper may remain in one location no more than five consecutive nights.

DD. Watson Heritage Preserve.

Camping is restricted to primitive camping.

EE. Webb WMA.

(1) Webb WMA is closed to the general public from one hour after official sunset to one hour before official sunrise.

(2) Overnight visitors to the Webb Center are not restricted in hours of access.

(3) No horseback riding is allowed without a permit.

(4) No camping without a permit except for deer, turkey, and hog hunters on nights before a designated hunt.

(5) Bicycles may be ridden on any area that is not marked or posted as restricted to bicycles. No bicycle may be operated in any manner or place that will damage or degrade any feature or habitat. During scheduled big game hunts, bicycles and all terrain vehicles are prohibited except as used by legal hunters and anglers.

123-206. Special events, permit requirements and procedures, and exceptions.

A. A special event permit is required for all events occurring on Department land if one of the following conditions exists:

- (1) the exclusive use of a facility or a specified land or water area is required;
- (2) an organized or advertised competition will be conducted;
- (3) sound will be amplified which may disrupt area users; or
- (4) temporary structures, other than blinds or common camping equipment, will be erected;

B. Permits may not be issued for events that are commercial in nature, where entrance or similar fees are charged, or where vendors are present for the purpose of selling any items.

C. An event sponsored in part or in total by the Department shall not require a special event permit.

D. Permit procedures:

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(1) Each application for a special event permit must be submitted to the Department not less than 30 weekdays before the event is to be held;

(2) performance deposit may be required as a condition of special event permit issuance;

(3) The deposit will be returned by the Department, provided the special event permittee has performed all permit conditions;

(4) The permittee is responsible for cleaning and safekeeping the land during and following any event, and the permittee is responsible for any damage and for clean-up costs incurred by the Department in connection with the event.

(5) Permit holders may tag or mark wildlife only as allowed under permit conditions;

E. The Department may refuse to issue a special event permit if the proposed event would:

(1) not be compatible with intended uses of the area;

(2) result in misuse or damage to facilities, structures or the natural environment; or

(3) pose a threat to public health, safety or welfare.

F. In addition to other penalties prescribed by law, failure to comply with all rules and regulations and permit conditions is grounds for revocation of a special event permit or refusal to issue a special event permit.

123-207. Permits to collect plants, animals, or minerals or to undertake archeological activities.

A. The Department may issue permits to collect plants, animals, or minerals or to undertake research, survey, or archeological activities on Department land. Permits may be issued only for activities relating to educational or scientific purposes. Permits may be issued subject to the following conditions:

(1) Each application for a permit must be submitted to the Department not less than 30 weekdays before the proposed activity is to commence;

(2) A performance deposit may be required as a condition of permit issuance;

(3) The deposit will be returned by the Department, provided the permittee has performed all permit conditions;

(4) The permittee is responsible for cleaning and safekeeping the land during and following the activity, and the permittee will be responsible for any damage and for clean-up costs incurred by the Department in connection with the activity.

(5) Permit holders may tag or mark wildlife only as allowed under permit conditions;

B. The Department may refuse to issue a permit if the activity would:

(1) not be compatible with intended uses of the area;

(2) result in misuse or damage to facilities, structures or the natural environment; or

(3) pose a threat to public health, safety or welfare.

123-208. Exception for Non-Public Use Properties.

This regulation shall not be applicable to Department owned land used for such purposes as fish hatcheries, maintenance facilities, storage facilities, offices, residences, or similar facilities which are not open generally for public use or recreational purposes.

123-209. Management Activities of Department Personnel.

All Department employees, agents, and contractors may carry out any authorized activities on any Department land for purposes of maintenance, repair, construction, surveillance, law enforcement, or similar activities and may use any boats, vehicles, aircraft, equipment, and management techniques deemed necessary by the Department.

123-210. Law Enforcement, Fire Fighting, and Emergency Activities.

This regulation shall not be construed or applied to prevent any authorized law enforcement, fire fighting, emergency, or rescue personnel from carrying out their official responsibilities.

Fiscal Impact Statement:

This amendment to Regulation Chapter 123 will result in increased public use opportunities on Department-owned properties throughout the State. Local economies should benefit from sales of outdoor

recreation supplies, food and overnight accommodations. Sales taxes on these items will also directly benefit government.

Document No. 2690
DEPARTMENT OF NATURAL RESOURCES
 CHAPTER 123
 Statutory Authority: 1976 Code Section \square 50-13-250

Synopsis:

The regulation establishes new protections for trout in portions of three streams by restricting harvest and lure configurations available to anglers. The use of these restrictions is designed to enhance angling opportunities. The proposed regulation will restrict fishing in a 1.5 mile leased portion of the Middle Saluda River (Greenville County) to catch-and-release only. In Cheohee Creek and Chattooga River (Oconee County) fishing will be restricted to single barb hooks with all fish being released From November 1 through May 14.

Instructions:

Add new R.123-131, Trout Harvest, Portions of Chattooga River, Cheohee Creek and Middle Saluda River.

Text:

Regulation 123-131. Creel Limits and Bait/Lure Restrictions in Portions of Chattooga River, Cheohee Creek (Oconee County) and Middle Saluda River (Greenville County).

1. It shall be lawful to use or possess only artificial lures with single hooks, and all coldwater trout caught must be released immediately, during the period November 1 through May 14 inclusive to wit:
 - a. That portion of Chattooga River from South Carolina Highway 28 upstream (approx. 2-miles) to the confluence of Reed Creek (Big Creek) and Chattooga River. That portion of Cheohee Creek (approximately 1 stream mile) within the property boundary(s) of Piedmont Forestry Center, owned and operated by South Carolina Forestry Commission.
2. General state trout fishing regulations for the Chattooga River, and Cheohee Creek will apply during the period May 15 through October 31 inclusive.
3. It shall be unlawful to access this portion of Cheohee Creek except as prescribed and posted at Piedmont Forestry Center Office.
4. It shall be lawful to use or possess only artificial lures with single hooks, and all coldwater trout caught must be released immediately during the period January 1 through December 31 inclusive to wit:
 - a. That portion of Middle Saluda River (approximately 1.5 river miles) from Hugh Smith Road (Bridge) upstream to the foot-bridge at Jones Gap State Park.
5. This regulation shall be effective only during such time that the SCDNR has fishing rights leased from the landowner.
6. It shall be unlawful to access this portion of Middle Saluda River except as prescribed and posted at Jones Gap State Park Office.
7. The penalty for violating any of these Rules and Regulations shall be as prescribed by \square 50-13-60 of the 1976 Code.

Fiscal Impact Statement:

No additional state funding is requested. Existing staff and resources will be utilized. This regulation will have no negative fiscal impact on the state of South Carolina or its citizens. Delayed harvest regulations, when applied in all other situations in southeastern states, were reported to have increased angling use and therefore had a positive

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fiscal impact on the states. Two of the three stream reaches included in this regulation have not been open to public fishing in the past, therefore the new programs will provide a positive and new fiscal impact.

Document No. 2586

PUBLIC SERVICE COMMISSION

CHAPTER 103

Statutory Authority: S.C. Code Ann. Sections 58-3-140 (Supp. 2000) and 58-23-1010 (Supp. 2000)

103-102(22) Definition of a Limousine

Synopsis: The definition of a limousine is being amended to state a limousine includes sport utility vehicles and town cars.

Instructions: Amend Regulation 103-102 (22) to read as printed below.

Text:

R. 103-102 (22). Limousine.

A "Limousine" is a passenger carrier utilizing luxury vehicles and/or vans equipped to carry up to fifteen (15) passengers. A "Limousine" includes sport utility vehicles and town cars.

Fiscal Impact Statement: There will be no increased costs to the State or its political subdivisions.

Document No. 2687
DEPARTMENT OF SOCIAL SERVICES
 CHAPTER 114
 Statutory Authority: 1976 Code Section 43-1-80

114–1100. General-Family Independence Program

Synopsis:

The Department of Social Services proposing to amend current regulations in Article 11 of the Family Independence Program for the purpose of setting forth new budgeting procedures that will allow an applicant for the Family Independence Program to be given a deduction for monthly Child Care expenses prior to the determination of eligibility for Family Independence. The areas in which new regulations will be amended include the following: (a) deduction of Child Care expenses, not to exceed three consecutive months, prior to determination of gross income eligibility; and (b) use of a standardized Child Care deduction.

Section-by-Section Discussion

<u>Section Citation:</u>	<u>Explanation of Change:</u>
114-1140. N	Added (15) to allow a child care deduction of \$ 200. per month, per dependent child under age 12, that will be deducted from income prior to the eligibility determination. The family must incur a child care expense to be eligible for this deduction and this deduction cannot exceed three consecutive months.
114-1150. A	The Department will exclude any child care deduction prior to calculating the gross income test when determining eligibility for the Family Independence Program.

Instructions:

Revise Chapter 114 with the following changes to sections 1140.N and 1150.A.

Text:

114-1140. Financial Criteria.

N. Exclusions from Income. In determining the availability of income and resources, the following will not be included as income:

- (1) The earned income of dependent children is excluded in the FI gross income limit test and the need and benefit determination.
- (2) Up to four hundred dollars of interest and dividends per benefit group may be excluded annually.
- (3) Vendor payments made by a third party who is not a member of the budget group are excluded from income.
- (4) In-kind income received by the benefit group is excluded.
- (5) Grants, such as scholarships, obtained and used under conditions that preclude their use for current living costs.
- (6) Home produce of an applicant or recipient, utilized by him and his household for their own consumption.
- (7) Small nonrecurring gifts not to exceed \$100 per recipient in any quarter.

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(8) Payments made to FI recipients known as “child support gap payments” which are made from the child support payments from absent parents collected by the Office of Child Support Enforcement of the Department of Social Services.

(9) Assistance from other agencies and organizations will be excluded in determining the amount of assistance to be paid, provided that no duplication shall exist between such other assistance and that provided by the FI Program. In such complementary program relationships, nonduplication shall be assured by the fact that FI funds are insufficient to meet the total amount of money determined to be needed in accordance with the statewide standard. In such instances, grants by other agencies in an amount sufficient to make it possible for the individual to have the amount of money determined to be needed, in accordance with the FI standard, will not constitute duplication.

(10) Payments for home energy assistance will be excluded if certified by the Division of Economic Opportunity, Office of the Governor (or its successor), as being based on need.

(11) The principal of a bona fide loan will not be counted as income or a resource in the determination of eligibility and the amount of assistance. Interest earned on a loan is counted as unearned income in the month received and as a resource thereafter. Purchases made with a loan are counted as resources.

(12) The value of a governmental rent or housing subsidy is not counted as income.

(13) The value of the U.S. Department of Agriculture Food Stamp benefits or donated foods (surplus commodities).

(14) Relocation allowances paid to a recipient by the Family Independence Program.

(15) A Child Care deduction of two hundred dollars per month per dependent child, under age 12, will be subtracted from the gross earned or unearned income of families applying for Family Independence benefits. To be eligible for this deduction, the family must incur a child care expense for a dependent child(ren) living in the home. This deduction may only be given in the month of application and the two subsequent months.

114-1150. Determination of Benefits.

A. **Gross Income Limit.** Gross monthly countable earned and unearned income of the Family Independence benefit group must not exceed 185 percent of the need standard by family size. The gross income limit is an initial screen of eligibility for assistance.

B. Earned Income and Unearned Income.

(1) Earned income means gross earned income prior to any deductions for taxes or for any other purposes. Such earned income may be derived from an applicant’s or recipient’s own employment, such as a business enterprise, or farming; or derived from wages or salary received as an employee. It includes earnings over a period of time for which settlement is made at one given time, as in the instance of the sale of farm crops, livestock, or poultry.

(2) With reference to commissions, wages, or salary, earned income means the total amount, irrespective of personal expenses, such as income-tax deductions, lunches, and transportation to and from work, and irrespective of expenses of employment which are not personal, such as the cost of tools, materials, special uniforms, or transportation to call on customers.

(3) With respect to self-employment income, earned income means the total profit from a business enterprise, farming, etc., resulting from a comparison of the gross receipts with the business expenses (i.e., expenses directly related to producing the goods or services and without which the good or services could not be produced). The profit shall be as determined using Internal Revenue Service methods.

(4) With regard to the degree of activity, earned income is income produced as a result of the performance of services by a recipient; in other words, income which the individual earns by his own efforts, including managerial responsibilities, would be properly classified as earned income, such as management of capital investment in real estate. Conversely, in the instance of capital investment wherein the individual carries no specific responsibility, such as where rental properties are in the hands of rental agencies and the check is forwarded to the recipient, the income would not be classified as earned income.

(5) Unearned income is any income that does not meet the definitions of earned income above, such as direct child support, social security benefits, interest, dividends and gifts.

(6) Unemployment compensation benefits are treated as unearned income in the budgeting process.

C. Disregard of Earned Income. For purposes of eligibility and benefit determination, provided the benefit group has passed the gross income limit test in item A above, the Department will disregard from earned income:

(1) Fifty percent of the monthly gross countable earned income, of each individual whose needs are included in the budget group, for the first four months in which earned income is countable. This disregard can be received only once in twenty-four months.

(2) One hundred dollars per month from gross countable income of each individual whose needs are included in the budget group, for the remaining months of eligibility after the four months in paragraph (1) above have been exhausted.

(3) Casemanagers will counsel with recipients concerning the advantages and disadvantages of receiving a small FI benefit for a few months versus closing their case and possibly losing transitional Medicaid benefits as opposed to saving their time limited months for a possible future emergency, such as becoming unemployed.

Fiscal Impact Statement:

There may be a reallocation of funds from current TANF contracts, but no additional costs will be incurred by the State or its political subdivisions due to this regulatory change.

Document No. 2688

DEPARTMENT OF SOCIAL SERVICES

CHAPTER 114

Statutory Authority: 1976 Code Section 43-1-80

114–1300. General-Food Stamp Program

Synopsis:

The South Carolina Department of Social Services proposes to develop and amend Food Stamp regulations for the purpose of setting forth new and clarifying current regulations. The areas in which new regulations will be developed or amended include the following: (a) deletion of the requirement to close the Food Stamp case when a client moves from one county to another county; (b) removal of the requirement to sanction the entire family when the head of household fails to comply with Food Stamp work requirements; (c) removal of the requirement to disqualify individuals in arrears on court ordered child support; and (d) update of reporting requirements, Food Stamp Outreach activities, and Food Stamp claims, based on Federal Regulations.

Provisions in the United States Code, Title 7, Agriculture, Chapter 51—Food Stamp Program, permit South Carolina to adopt certain options in the administration of the Food Stamp Program. The Department proposes to develop new regulations and amend current regulations that will set forth the following options: (a) categorical eligibility based on participation in TANF funded programs; (b) reporting requirements for earned income households; (c) transitional benefits for families leaving TANF; (d) use of Family Independence vehicle policy in Food Stamps; (e) participation in Systematic Alien Verification Entitlement (SAVE) and Income Eligibility Verification System (IEVS); and (f) permit the Department to operate a simplified food stamp program for Family Independence recipients upon the publishing of eligibility criteria in the Food Stamp Policy Manual.

In addition, Federal Regulations allow the State to request waivers to those regulations. The Department proposes the following waivers: (a) waiver of the face-to-face interview requirement at quarterly recertification; (b) to report changes quarterly for fluctuating income households; (c) ABAWD alternatives; (d) use of State ESC data to establish Food Stamp claims; (e) submission of State Corrective Action Plan annually; (f) self-declaration of interest income; and (g) change in reporting requirement for income from private sources from \$25 to \$100.

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Section-by-Section Discussion

<u>Section Citation:</u>	<u>Explanation of Change:</u>
114-1300.A	General – Explains what is contained in the FS regulations (waivers and options). Also, changes name of Food and Consumer Service to Food and Nutrition Service.
114-1300.B	Applicants for the FS Program may apply in any county within the state. Eligibility will be determined and maintained in the county in which they reside. FS cases for households who move to another county in the state will remain open.
114-1300.C	Categorical eligibility extended to households who receive services funded with less than 50% TANF dollars.
114-1300.D	TANF vehicle rules are used in the FS Program.
114-1300.E	Allows the Department the option to provide households leaving TANF with transitional food stamp benefits.
114-1300.F	Allows the Department the option to operate a Simplified FS Program.
114-1300.G	S.C. will renew annually the waiver to exempt counties with an unemployment rate greater than 10% or counties identified as labor surplus from policy pertaining to Able-Bodied Adults Without Dependents (ABAWDs).
114-1320.	Application Processing – Removed information contained in the federal regulations.
114-1320.B	SC will use SAVE to verify immigration status.
114-1320.C	SC will use IEVS to verify eligibility and income.
114-1330	Income and Deductions – Removed information contained in federal regulations.
114-1330.A	Households may choose a standard utility allowance or a basic utility allowance as a utility deduction.
114-1330.B	Homeless households may claim actual monthly shelter deductions.
114-1330.C	A pro rata share of gross income is budgeted for households that contain an ineligible alien.
114-1330.D	S.C. will renew waiver to allow households to self-declare any interest income that is less than \$10 per month or \$120 per year.
114-1335	Disqualifications and Sanctions
114-1335.A	The state will sanction individuals who fail to comply with FS work requirements in the following manner: first violation – one month, second violation – 3 months, third and subsequent violations – 6 months. The individual must serve the sanction and comply with work requirements, unless they become exempt.
114-1335.B	When an individual is sanctioned in the FI program for failure to comply with program requirements, the FS benefit must not increase.

- 114-1335.C When a household receives a full-family sanction in the FI program, the FS benefit must not increase. This prohibition is limited to a one-year time period. In addition, the non-compliant individual causing the sanction will be removed from the FS budget unless exempt from FS work requirements. This sanction will continue until the individual cooperates with FI work program requirements or becomes exempt from FS work requirements, whichever is less.

- 114-1335.E Removal of information regarding sanctions due to failure to cooperate with child support.

- 114-1340 Determining Eligibility and Benefit Levels – Removed information now contained in federal regulations.

- 114-1340.C Corrected conversion amounts.

- 114-1350 Reporting changes – Removed information now contained in federal regulations.

- 114-1350.A The state will allow households with earned income to only report at six month time periods unless they have changes in income that would be greater than the FS income limits.

- 114-1350.B The state will renew the waiver allowing households to only report changes in earned income that are due to source, hourly rate or salary, or employment status.

- 114-1350.C The state will renew the waiver to require certified benefit groups to report new employment within 10 days from the start of the new employment.

- 114-1350.D The state will renew the waiver to allow households to only report unearned income of greater than \$100 from private sources.

- 114-1380 Outreach – Removed the purpose of outreach.

- 114-1385 Claims – Removed information contained in federal regulations.

- 114-1385.A The state will take action to establish claims on all referrals no later than six months from the date the overpayment was detected.

- 114-1385.B The State will initiate collection action on inadvertent household error or agency error claims under \$125 at such time that multiple overpayments for a household total \$125 or more.

- 114-1385.C The state will participate in the S.C. Department of Revenue Debt Offset Program for the collection of delinquent FI and FS overpayments.

- 114-1385.D The state will submit to FNS a waiver to use wage information obtained from Employment Security Commission when calculating overpayments that result from earned income.

- 114-1390 Fair Hearings – Removed information now in federal regulations.

Instructions:

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Revise Chapter 114 with the following changes to sections 1300.A, B, C, D, E, F, and G, 1320.C, D, and E, 1330.A, B, C, and D, 1335.A, B, C, and E 1340.A, B, C, and D, 1350.A, B, C, and D, 1380., 1385.A, B, C, and D, and 1390.

Text:

114-1300. General

A. The Food Stamp Program (FSP) is administered by the Food and Nutrition Service, United States Department of Agriculture. The Food Stamp Program (FSP) is authorized by the Food Stamp Act of 1977, as amended. The eligibility provisions of the Act are further developed in Title 7, Code of Federal Regulations, Parts 210 through 299.

(1) If an alternative is provided and the State does not select the alternative, the primary federal regulation prevails.

(2) Certain parts of these regulations permit the State to select options regarding FSP eligibility criteria. The State follows the federal regulations where no options are permitted.

(3) The State may also submit "waivers" of federal regulations to Food and Nutrition Service for approval that will permit the State to operate certain parts of the FSP according to regulations developed by the state and different than those specified in the Code of Federal Regulations. Such "waivers" are approved for a certain period of time and must be resubmitted for renewal prior to the end of the approved time period.

The State Regulations for the FSP address only the areas where the federal regulations allow the State to chose an option or where the State has obtained a waiver from those regulations.

The Department of Social Services is the designated single State Agency to operate the FSP.

B. Each of the forty-six counties is considered to be a project area for the Food Stamp Program. Applicants may apply for food stamps in any of the forty-six counties within the state. Their eligibility will be determined and maintained in the county in which they currently reside. When a food stamp household moves from one county to another county the food stamp case will remain open. The Department of Social Services County Office will review the household's circumstances and act on any changes resulting from the move.

C. The Department will extend categorical eligibility to any household in which all members receive or are authorized to receive non-cash or in-kind services from a program that is less than 50 percent funded with Title IV-A money and that is designed to further purposes one and two of the TANF block grant.

D. The Department will use TANF vehicle allowance rules when determining whether a vehicle is an excluded resource. These rules will exclude one licensed/registered vehicle per licensed driver in the household

E. The Department may opt to provide households leaving Temporary Assistance to Needy Families (TANF) with transitional food stamp benefits. When the household leaves TANF, the Department will freeze the household's food stamp benefit amount at the level the household received when it received TANF. This does not apply to households that, at the time the household leaves TANF, are noncompliant with TANF requirements and the Department is imposing a comparable food stamp sanction, households who have violated a food stamp work requirement, households where a member has committed an intentional program violation, or households where the TANF case is being closed because the household failed to comply with food stamp reporting requirements.

F. The Department of Social Services may opt to operate a Simplified Food Stamp Program to conform FSP regulations to the State regulations used to determine eligibility for the Temporary Assistance for Needy Families (TANF) Program. At such time as requirements for such a program are developed, the Department will provide an opportunity for public input. The State Regulations contained in Chapter 114, Article 13, Food Stamp Program, apply to all Food Stamp Program recipients except for those who would receive food stamps under the

provisions of the Simplified Food Stamp Program (Section 26 of the Food Stamp Act of 1977, as amended) at such time as it is developed.

G. The State will submit to FNS for renewal annually, the “waiver” to exempt all counties with an annual unemployment rate greater than ten percent and all counties identified as labor surplus areas from policy pertaining to individuals identified as Able-bodied Adults Without Dependents (ABAWDs). Individuals identified as ABAWDS are limited to receipt of three months of food stamp benefits in a three year period unless they are complying with minimum work requirements.

114-1320. Application Processing.

A. The State will inform applicants about the eligibility requirements and their rights and responsibilities and the responsibilities of the Department under the Food Stamp Program. Under this requirement, individuals are given information in written form, and orally as appropriate, about coverage, conditions of eligibility, scope of the program, related services available, and the rights and responsibilities of applicants for and recipients of assistance. Specifically developed bulletins or pamphlets explaining the rules regarding eligibility and appeals in simple, understandable terms shall be available. Applicants for and recipients of assistance shall be notified in writing at the time of application and recertification that the Department will regularly request information from other federal and State agencies which will be used to aid in determining their eligibility for and the amount of benefits.

B. The Department will verify the validity of all documents used to verify the immigration status of noncitizens through the Immigration and Naturalization Service (INS) Systematic Alien Verification Entitlement (SAVE) Program.

C. The Department will use information obtained through the Income and Eligibility Verification System (IEVS) to verify the eligibility and benefit levels of applicants and participating households

114-1330. Income and Deductions.

A. In addition to a monthly Standard Utility Allowance for households which incur a heating or cooling expense during the year, the State will offer a monthly Basic Utility Allowance for households which do not incur a heating or cooling expense during the year shall be determined by the Department. The standards shall be reviewed and updated annually using a statistically acceptable sampling procedure to establish a normative utility cost incurred by food stamp recipients.

B. The State will allow homeless food stamp recipient households to claim a monthly shelter deduction based on the actual costs that the household incurs.

C. The State will count a pro rata share of the gross income of an ineligible alien toward the total income of the food stamp budget group.

D. The State will submit to FNS for renewal every two years, the “waiver” to accept the benefit group’s statement as verification for interest income in the amount of \$10 or less per month or \$120 or less per year.

114-1335. Disqualifications and Sanctions.

A. The State will sanction an individual recipient who fails to cooperate with Food Stamp work requirements for the time periods shown below. The non-compliant recipient must serve the entire sanction period (unless they become exempt from work registration requirements, at which time the sanction is lifted) and comply with Food Stamp work requirements before eligibility may be reestablished.

(1) First violation--one month.

(2) Second violation--three months.

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(3) Third violation--six months.

such as the Family Independence Program, for failure to that the food stamp benefit will not increase as a result of the loss of income from the means-tested program until such time as he complies with Family Independence program requirements

C. When a Family Independence household receives a full-family sanction, the State will remove the non-compliant individual causing the sanction from the food stamp budget (unless he is exempt from food stamp work requirements) and any income he receives will continue to be counted in the food stamp budget. The food stamp benefit paid to the household at the time of the Family Independence case closure will not increase as a result of the loss of income from the Family Independence case closure. This process is limited to one year or until such time as the non-compliant individual complies with Family Independence program requirements or becomes exempt from food stamp work requirements, whichever is less.

114-1340. Determining Eligibility and Benefit Levels.

A. The Department's time period covered by the benefit month is a calendar month.

B. The State will use prospective budgeting for all FS cases, determining the best estimate of income that will exist in the benefit month. Past income which is indicative of future income is used to calculate budgeted income for the certification period.

C. The Department will convert income to monthly amounts by multiplying weekly amounts by 4.33 and bi-weekly amounts by 2.16.

D. The State will automatically process by the FS computer system, Social Security and Supplemental Security Income cost of living increases received by benefit group members.

114-1350. Reporting Changes.

A. The State will allow households with earned income and six month certification periods to report only changes in the amount of gross monthly income that result in their gross monthly income exceeding 130 percent of the monthly poverty income guideline for their household size. Households with earned income certified for longer than six months must submit an interim report at six months which would detail all changes in the household.

B. The State will submit to FNS for renewal every two years, the "waiver" to require certified benefit groups to report changes in earned income if there is a change in:

(1) Source;

(2) Hourly rate or salary; or

(3) Employment status (part-time to full-time and full-time to part-time as defined by the employer).

C. The State will submit to FNS for renewal every two years, the "waiver" to require certified benefit groups to report new employment within 10 days from the start of the new employment.

D. The State will submit to FNS for renewal every two years, the "waiver" to require certified benefit groups that are not subject to the mailed recertification process to report a change in source of unearned income from private sources and changes in the amount of unearned income from private sources of greater than \$100 within 10 days of the date the change becomes known to the benefit group.

114-1380. Outreach.

Outreach activities will be coordinated by the agency through local agencies and organizations within each county. The purpose of the Food Stamp Outreach Program is to:

(1) Inform low income households of the application process and availability of benefits;

- (2) Enlist the cooperation of other agencies and organizations in distributing FS program information and in facilitating the participation of eligible benefit groups;
- (3) Identify reasons why eligible households do not participate in the FS program; and
- (4) Plan actions to remove barriers to participation in the FS program

114-1385. Claims.

A. The State will take action to establish claims on all agency error, inadvertent household error and intentional program violation overpayment referrals no later than the six months from the date the overpayment was detected.

B. The State will initiate collection action on inadvertent household or agency error claims under \$125 at such time that multiple overpayments for a household total \$125 or more.

C. The State will participate in the South Carolina Department of Revenue Debt Offset Program for the collection of delinquent Family Independence and food stamp overpayments and follows state regulations for this program.

D. The State will submit to FNS for renewal at the State's discretion, the "waiver" to use the wage amounts obtained from the Employment Security Commission Wage Match when calculating the amount of overpayment that results from earned income. The overpayment is calculated by using one-third of the total income for each quarter listed in the Match for each corresponding month of the claim. The benefit group must be informed of their right to a fair hearing to refute the amount of the claim.

114-1390. Fair Hearings.

A. The State will allow the applicant or recipient to choose between a face-to-face hearing or a telephone hearing. If neither option is chosen, a face-to-face hearing will be scheduled. Also, if the hearing official decides that a face-to-face hearing is necessary, one will be scheduled.

B. The State will monitor county appeal decisions to ensure correct interpretation of FS policies. When appropriate, county corrective action will be required if the number of appeals or overturned appeals becomes excessive.

Fiscal Impact Statement:

There will be no additional cost incurred by the State or any of its political subdivisions.